

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
)	
Complainant,)	
)	
v.)	PCB No. 13-16
)	(Enforcement – Air and Water)
ALPENA VISION RESOURCES, LLC,)	
a Michigan limited liability company,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Persons on Attached Service List

PLEASE TAKE NOTICE that I have today filed with the Clerk of the Illinois Pollution Control Board by electronic filing the Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement, true and correct copies of which are attached hereto and hereby served upon you.

Respectfully submitted,

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

BY: *Nancy J. Tikalsky*
NANCY J. TIKALSKY
Senior Assistant Attorney General
Environmental Bureau
Office of the Illinois Attorney General
115 S. LaSalle Street, 23rd Floor
Chicago, Illinois 60603
(872) 272-0776
nancy.tikalsky@ilag.gov

DATE: May 27, 2026

SERVICE LIST

CAROL WEBB
Hearing Officer
Illinois Pollution Control Board
2520 W. Illes Avenue,
Springfield, IL 62704
(217) 524-8509
Carol.Webb@Illinois.Gov

Daniel Olswang
NETZKY OLSWANG & HANLON
8605 W. Bryn Mawr, Suite 309
Chicago, IL 60631
dan@nohlawchicago.com

Don Brown - Clerk of the Board
Illinois Pollution Control Board
60 E. Van Buren St., Suite 630
Chicago, IL 60601
312/814-3620
312/814-3669
don.brown@illinois.gov

CERTIFICATE OF SERVICE

I, Nancy J. Tikalsky, a Senior Assistant Attorney General, do certify that on this 27th day of May 2026, I caused to be served copies of Notice of Filing, Motion for Relief from Hearing Requirement and Stipulation and Proposed Settlement, upon the persons listed on the attached Service List via electronic mail.

By: *Nancy J. Tikalsky*
NANCY J. TIKALSKY
Senior Assistant Attorney General
Office of the Illinois Attorney General
Environmental Bureau
115 S. LaSalle Street, 23rd Floor
Chicago, IL 60603
(872) 272-0776
nancy.tikalsky@ilag.gov

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MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2024), moves that the Illinois Pollution Control Board (“Board”) grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2024). In support of this motion, Complainant states as follows:

1. On June 8, 2023, a First Amended Complaint was filed with the Board in this matter.
2. Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2024), effective August 1, 1996, allows the parties in certain enforcement cases to request relief from the mandatory hearing requirement where the parties have submitted to the Board a stipulation and proposal for settlement.
3. No hearing is currently scheduled in the instant case.
4. The parties have reached agreement on all outstanding issues in this matter.

5. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.

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) (2024).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL
Attorney General
State of Illinois

BY: /s/ *Nancy J. Tikalsky*

Nancy J. Tikalsky
ARDC 6273159
Senior Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
115 S. LaSalle Street, 23rd Fl.
Chicago, Illinois 60603
(872) 272-0776
nancy.tikalsky@ilag.gov
maria.cacaccio@ilag.gov

Dated: May 27, 2026

motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2024), against the Respondent (“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 (2024).

3. At all times relevant to the Complaint, Respondent was and is a Michigan limited liability company that is authorized to transact business in the State of Illinois.

4. At all times relevant to the Complaint, Respondent owned a former coal mine for operating reclamation activities located 1.5 miles east of Murdock, Douglas County, Illinois, Parcel Number 06-04-34-400-009. The Site is bordered on the east by County Road 2250E and the south by US Route 36 (“Site”).

5. On September 9, 2010, Illinois EPA issued to the Respondent a National Pollutant Discharge Elimination System (“NPDES”) Permit No. IL0061735 (“Alpena NPDES Permit 2010”). The Alpena NPDES Permit 2010 incorporated Construction Authorization No. 7266-01 that expired on August 31, 2015. The April 1, 2017 renewal of the Alpena NPDES Permit 2010 issued by the Illinois EPA incorporated Construction Authorization No. 3137-51, which superseded Construction Authorization No. 7266-01 (“Alpena NPDES Permit 2017”). The Alpena NPDES Permit 2017 was set to expire on March 31, 2022, but it is administratively continued due to Respondent’s timely application for renewal on September 27, 2021.

B. Allegations of Non-Compliance

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

Count I: **AIR POLLUTION**
Violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2024), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

- Count II: **WATER POLLUTION**
Violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2024), and Sections 403.102, 406.108 and 620.405 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 403.102, 406.108 and 620.405;
- Count III: **CREATING A WATER POLLUTION HAZARD**
Violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2024);
- Count IV: **EXCEEDANCING EFFLUENT LIMITATIONS**
Violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2024) and Sections 406.106 and 403.102 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 406.106 and 403.102;
- NPDES PERMIT VIOLATIONS:**
- Count V: **GENERAL WATER QUALITY STANDARDS: OFFENSIVE CONDITIONS AND DISCHARGES**
Violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2024), Sections 406.202, 302.203, 406.107, 406.108 and 403.102 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 406.202, 302.203, 406.107, 406.108 and 403.102, and Special Condition No. 1 of both the Alpena NPDES Permit 2010 and Alpena NPDES Permit 2017;
- Count VI: **DISCHARGE MONITORING AND REPORTING**
Violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2024), Sections 406.102 and 305.102(b) of the Board Water Pollution Regulations, 35 Ill. Admin. Code 406.102 and 305.102(b), Effluent Limitations and Monitoring requirements of the Alpena NPDES Permit 2017 and Special Conditions No. 3 and No. 4 of the Alpena NPDES Permit 2017;
- Count VII: **GROUNDWATER MONITORING AND REPORTING**
Violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2024), Sections 305.102(b) and 620.405 of the Board Water Pollution Regulations, 35 Ill. Admin. 305.102(b) and 620.405, and General Condition No. 13 and Special Conditions No. 3 and No. 5 of the Alpena NPDES Permit 2017; and
- Count VIII: **PERIODIC MONITORING AND REPORTING**
Violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2024), Section 305.102(b) of the Board Water Pollution Regulations, 35 Ill. Admin. Code 305.102(b), Page 6, Paragraph 3 of Alpena NPDES Permit 2010, General Condition No. 13(b) and Special Conditions No. 3, No. 5, No. 11 and No. 14 of Alpena NPDES Permit 2010, and Special Conditions No. 3, No. 5, No. 12, and No. 13 of the Alpena NPDES Permit 2017.

C. Non-Admission of Violations

The Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, the Respondent does not affirmatively admit the allegations of violation within the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

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 members, managers, 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 (2024).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2024), 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 Complainant to the Stipulation states as follows:

1. Respondent's violations were harmful to human health and the environment and hindered Illinois EPA's information gathering responsibilities.

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

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

4. Respondent's compliance with the Act, Board regulations and Alpena NPDES Permit 2017 terms were both technically practicable and economically reasonable.

5. Respondent has subsequently not complied with the Act and the Board Regulations, the Alpena NPDES Permit 2010, or the Alpena NPDES Permit 2017.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2024), 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 Complainant to the Stipulation states as follows:

1. From at least August 2, 2018 through the present, the Respondent failed to manage mine reclamation materials, including biosolids, accumulated at the Site, so as to cause, threaten or allow air pollution, caused or allowed unauthorized discharges from the Site, exceeded effluent discharge limitations, caused, threatened or allowed water pollution, created offensive conditions from its discharges from the Site, failed to perform stormwater and groundwater monitoring and reporting, and failed to perform biannual monitoring and submit reports for the discharges from Outfall 001 in violation of provisions of the Alpena NPDES Permit 2010 and Alpena NPDES Permit 2017.

2. Respondent was not diligent in attempting to come back into compliance with the Act, Board regulations, Alpena NPDES Permit 2010, and Alpena NPDES Permit 2017, once the Illinois EPA notified it of its noncompliance.

3. The civil penalty takes into account any economic benefit realized by the Respondent as a result of avoided or delayed compliance.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Six Thousand dollars (\$6,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act, Board regulations and Alpena NPDES Permit 2017.

5. To Complainant's knowledge, 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 Six Thousand Dollars (\$6,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. **Stipulated Penalties, Interest, and Default**

1. If the Respondent fails to complete any activity or fails to comply with any response or reporting requirement by the date specified in this Stipulation, the Respondent shall provide notice to the Complainant of each failure to comply with this Stipulation and shall pay stipulated penalties in the amount of \$400.00 per day per violation for up to the first fifteen (15) days of violation, \$500.00 per day per violation for the next fifteen (15) days of violation, and \$1,000.00 per day per violation thereafter until such time that compliance is achieved. The Complainant may make a demand for stipulated penalties upon the Respondent for its

noncompliance with this Stipulation. However, failure by the Complainant to make this demand shall not relieve the Respondent of the obligation to pay stipulated penalties. All stipulated penalties shall be payable within thirty (30) calendar days of the date the Respondent knows or should have known of its noncompliance with any provision of this Stipulation.

2. 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.

3. 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.

4. The stipulated penalties shall be enforceable by the Complainant and shall be in addition to, and shall not preclude the use of, any other remedies or sanctions arising from the failure to comply with this Stipulation.

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
2520 West Iles Avenue
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:

Nancy J. Tikalsky
Senior Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
115 S. LaSalle, 23rd Floor
Chicago, Illinois 60603
nancy.tikalsky@ilag.gov

D. Future Compliance

1. Respondent shall work cooperatively with the Illinois EPA and Illinois Department of Natural Resources regarding the Alpena NPDES Permit 2017.

2. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, shall have the right of entry into and upon the Respondent's facility which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the

Attorney General, his employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

3. 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.

4. The Respondent shall cease and desist from future violations of the Act and Board Regulations, and Alpena NPDES Permit 2017 that were the subject matter of the Complaint.

E. Release from Liability

In consideration of the Respondent's payment of the \$6,000.00 penalty, its commitment to cease and desist as contained in Section V.D.4 above, its completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent and its members, managers, officers, directors, agents, employees or successors or assigns from any further liability or penalties for the violations of the Act, Board regulations, Alpena NPDES Permit 2010 and Alpena NPDES Permit 2017 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 June 8, 2023. 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. Correspondence, Reports and Other Documents

Any and all correspondence, reports and any other documents required under this Stipulation, except for penalty payments, shall be submitted as follows:

As to the Complainant

Nancy J. Tikalsky
Senior Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
115 S. LaSalle, 23rd Floor
Chicago, Illinois 60603
nancy.tikalsky@ilag.gov

Gabe Neibergall
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
2520 West Iles Avenue
P.O. Box 19276
Springfield, Illinois 62794-9276

As to the Respondent

Daniel Olswang
Netzky Olswang & Hanlon LLC
8605 W. Bryn Mawr, Suite 309
Chicago, IL 60631
Cell: 847.224.1169
dan@nohlawchicago.com

G. Enforcement and Modification of Stipulation

1. 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.

2. The Parties to the Stipulation may, by mutual written consent, agree to extend any compliance dates or modify the terms of this Stipulation. A request for any modification shall be made in writing and submitted to contact persons identified in Section V.F. Any such request shall be made by separate document and shall not be submitted within any other report or submittal required by this Stipulation. Any such agreed modification shall be in writing, signed by authorized representatives of the Parties to the Stipulation.

H. 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.

I. 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.

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
KWAME RAOUL
Attorney General
State of Illinois

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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

JAMES JENNINGS, Acting Director
Illinois Environmental Protection Agency

BY: *Stephen J. Sylvester*
STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

BY: *Andrew Armstrong*
ANDREW ARMSTRONG
Chief Legal Counsel

DATE: 5/20/26

DATE: 05/15/2026

ALPENA VISION RESOURCES, LLC

By: *Gerald Lee Nudo*

Its: *Manager*

DATE: 4/20/26