

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
<b>by KWAME RAOUL, Attorney</b>	)	
<b>General of the State of Illinois,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>PCB No. 22-14</b>
	)	<b>(Enforcement – Water)</b>
<b>UNITED READY MIX, INC.,</b>	)	
<b>a Delaware corporation,</b>	)	
	)	
<b>Respondent.</b>	)	

**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 Notice of Filing, Stipulation and Proposal for Settlement, Motion for Relief from Hearing Requirement, and Certificate of Service, copies of which are attached and hereby served upon you.

Respectfully submitted,

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

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

By: s/Christina Nannini  
Christina Nannini  
Office of the Illinois Attorney General  
500 S. Second Street  
Springfield, IL 62701  
(217) 782-9031  
christina.nannini@ilag.gov

Dated: March 22, 2021

Service List

Carol Webb (via Electronic Mail)  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
Carol.Webb@illinois.gov

For the Respondent

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



## I. STATEMENT OF FACTS

### A. Parties

1. On October 13, 2021, 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 (2020), against the Respondent.

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 (2020).

3. United Ready Mix, Inc. ("Respondent") is a Delaware corporation, authorized and in good standing to conduct business in the State of Illinois

4. Respondent is a manufacturer of ready-mix concrete at two locations, one located in Peoria, Illinois and one located in Pekin, Illinois.

5. On June 15, 1998, United obtained coverage for the Pekin and Peoria sites under the General Storm Water NPDES Permit for Industrial Activity ("General NPDES Permit").

6. On October 6, 2018, Illinois EPA sent a letter to Respondent regarding the Pekin and Peoria sites 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").

7. On March 19, 2020, Respondent submitted an application for renewal of coverage for the Pekin and Peoria sites under the General NPDES Permit.

8. On May 20, 2020, Illinois EPA sent Respondent notices that it had approved coverage for the Pekin and Peoria sites under the General NPDES Permit, but advised that

Respondent still needed to submit a SWPPP and outstanding Annual Inspection Reports for both site.

9. On August 9, 2021, Respondent submitted the SWPPP for the Pekin and Peoria sites.

**B. Allegations of Non-Compliance**

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

Count I: Failure to Timely Reapply for NPDES Permit – Pekin Site  
415 ILCS 5/12(f)  
35 Ill. Adm. Code 309.102(a)

Count II: Failure to Timely Reapply for NPDES Permit – Peoria Site  
415 ILCS 5/12(f)  
35 Ill. Adm. Code 309.102(a)

Count III: Water Pollution – Pekin Site  
415 ILCS 5/12(a)  
35 Ill. Adm. Code 309.102(a)

Count IV: Water Pollution – Peoria Site  
415 ILCS 5/12(a)  
35 Ill. Adm. Code 309.102(a)

**C. Admission of Violations**

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

**D. Compliance Activities to Date**

On October 27, 2021, Respondent submitted all outstanding annual reports for the Pekin and Peoria sites and is now in compliance.

## **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 (2020).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2020), 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. Illinois EPA's information gathering responsibilities were hindered by Respondent's delayed submittal of the NPDES renewal application, SWPPPs, and annual reports thereby threatening human health and the environment.

2. There is social and economic value in the existence and operation of Respondent's business.

3. Respondent's business is suitable for the areas in which it is operated, so long as it is operated in compliance with the Act and Board Regulations.

4. Submitting a NPDES renewal application, SWPPPs, and annual reports in a timely manner is both technically practical and economically reasonable.

5. Respondent has subsequently corrected the violations of the Act and Board Regulations alleged in the Complaint.

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

Section 42(h) of the Act, 415 ILCS 5/42(h) (2020), 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. Respondent failed to maintain its NPDES permit for discharge of stormwater runoff into discharge waters. The requirement of timely applying for NPDES permit renewal and maintaining NPDES permit coverage is of significant importance to Illinois EPA's water program.
2. Respondent lacked diligence in submitting the NPDES permit renewal application in compliance with the Act, Board regulations and applicable federal regulations, but has since submitted the application and other required documents properly.
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 Thirteen Thousand One Hundred and Forty Dollars (\$13,140.00) will serve to deter violations and aid in future voluntary compliance with the Act and Board Regulations.
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**

1. The Respondent shall pay a civil penalty in the sum of Thirteen Thousand One Hundred and Forty Dollars (\$13,140.00) within thirty (30) calendar 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**

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 #2  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

The name and case number shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Christina L. Nannini  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62701

**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. Respondent shall comply with all terms and conditions of the NPDES General Permit.

3. 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 completion of the environmentally beneficial

project, its commitment to cease and desist as contained in Section V.B.3 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 contemporaneously with this Stipulation. 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. Enforcement**

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.

**G. 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, Complainant reserves the right to withdraw its consent of 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 Complainant has notified Respondent in writing that it withdraws or withholds its consent for the Stipulation. In the event Complainant notifies 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.

**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.

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

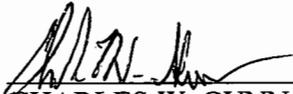
MATTHEW J. DUNN, Chief  
Environmental Enforcement/  
Asbestos Litigation Division

BY:   
ANDREW ARMSTRONG, Chief  
Environmental Bureau  
Assistant Attorney General

DATE: 03/20/2022

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

JOHN J. KIM, Director  
Illinois Environmental Protection Agency

BY:   
CHARLES W. GUNNARSON  
Chief Legal Counsel

DATE: 3/10/22

UNITED READY MIX, INC.

BY: 

DATE: 1.18.22

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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<b>by KWAME RAOUL, Attorney</b>	)	
<b>General of the State of Illinois,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>PCB No. 22-14</b>
	)	<b>(Enforcement – Water)</b>
<b>UNITED READY MIX, INC.,</b>	)	
<b>a Delaware corporation,</b>	)	
	)	
<b>Respondent.</b>	)	

**MOTION FOR RELIEF FROM HEARING**

NOW COMES Complainant, People of the State of Illinois, by Kwame Raoul, Attorney General of the State of Illinois, and requests relief from the requirement of a hearing in this matter. In support thereof, Complainant states as follows:

1. Filed contemporaneously with this Motion is a Stipulation and Proposal for Settlement executed between Complainant and the Respondent, United Ready Mix.
2. The parties have reached agreement on all outstanding issues in this matter.
3. Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2018), provides as follows:
 

(c)(2) Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

4. No hearing is scheduled in this matter.
5. Complainant hereby requests relief from the requirement of a hearing pursuant to Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2020).

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/ Christina L. Nannini  
CHRISTINA L. NANNINI  
Assistant Attorney General  
500 South Second Street  
Springfield, Illinois 62706  
(217) 557-0586  
christina.nannini@ilag.gov

Dated: March 22, 2022

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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<b>by KWAME RAOUL, Attorney</b>	)	
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<b>UNITED READY MIX, INC.,</b>	)	
<b>a Delaware corporation,</b>	)	
	)	
<b>Respondent.</b>	)	

**CERTIFICATE OF SERVICE**

I hereby certify that I have served on March 22, 2022, the foregoing Stipulation and Proposal for Settlement, Motion for Relief from Hearing Requirement, and Notice of Filing upon persons listed on the Service List by electronic mail, as noted, or First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois by the time of 5:00 PM.

s/Christina L. Nannini  
CHRISTINA L. NANNINI, #6327367  
Assistant Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62701  
Telephone: (217) 782-9031  
christina.nannini@ilag.gov