



**SERVICE LIST**

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**BEFORE THE ILLINOIS POLLUTION BOARD**

**PEOPLE OF THE STATE OF ILLINOIS,** )  
**by KWAME RAOUL, Attorney General** )  
**of the State of Illinois,** )  
) )  
**Complainant,** )  
) )  
**v.** )  
) )  
**YAK MAT, LLC,** )  
**a Mississippi limited liability company,** )  
**BIRCH CREEK TIMBER, LLC,** )  
**an Illinois limited liability company, and** )  
**LEON STUTZMAN, an individual,** )  
) )  
**Respondents.** )

**PCB No. 2021-26  
(Enforcement)**

**STIPULATION AND PROPOSAL FOR SETTLEMENT  
AS TO RESPONDENT YAK MAT, LLC**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency (“Illinois EPA”), and YAK MAT, LLC, a Mississippi limited liability company (“Respondent”), (collectively “Parties to the Stipulation”), have agreed to the making of this Stipulation and Proposal for Settlement (“Stipulation”) and submit it to the Illinois Pollution Control Board (“Board”) for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board’s approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/1 *et seq.* (2020), and the Board’s Regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

**I. STATEMENT OF FACTS**

**A. Parties**

1. On September 28, 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 (2020), against the Respondent, as well as Birch Creek, LLC, and Leon Stutzman.

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. At all times relevant to the Complaint, Respondent was and is a Mississippi limited liability company that is authorized to transact business in the State of Illinois. Respondent supplies access mats used in the construction and other industries, including timber mats.

4. Respondent provided timber mats for a construction project near Murrayville, Illinois. Upon completion of the project, Respondent entered into an agreement with Birch Creek Timber, LLC, for the disposal of timber mats belonging to Yak Mat. The agreement indicated that the mats were to be disposed of at 1392 NE 800 Avenue, Roodhouse, Illinois, which is a property belonging to Leon Stutzman. This property is not permitted for the disposal of waste.

5. On March 29, 2018, the Illinois EPA inspected a property located near the intersection of County Roads 2650N and 1725E approximately one-mile east-northeast of Roodhouse, Greene County, Illinois, after receiving a complaint of a large fire. This property also belonged to Leon Stutzman. During the inspection, approximately twenty (20) rows of timber mat stacks 150 feet long and 10 feet tall, covering approximately two (2) acres, were present at the property. The timber mats were burning.

6. The Roodhouse Fire Department was called to respond to the Disposal Site and extinguish the fire. Two thousand five hundred (2,500) gallons of water was placed on the fire to little effect. As a result, the fire was then allowed to burn itself out.

**B. Allegations of Non-Compliance**

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

- Count I: Open Dumping of Waste  
415 ILCS 5/21(a) (2020)
- Count II: Open Dumping Resulting in Litter  
415 ILCS 5/21(p)(1) (2020)
- Count III: Open Dumping of General Construction or Demolition Debris  
415 ILCS 5/21(p)(7) (2020)
- Count IV: Open Burning Violations  
415 ILCS 5/9(a), (c) (2020)  
415 ILCS 5/21(p)(3) (2020)
- Count V: Conducting a Waste-Disposal Operation without a Permit  
415 ILCS 5/21(d)(1) (2020)
- Count VI: Developing and Operating a Landfill without a Permit  
415 ILCS 5/21(d)(2) (2020)
- Count VII: Waste Disposal at an Improper Site  
415 ILCS 5/21(e) (2020)

**C. Admission of Violations**

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

**D. Compliance Activities**

Debris resulting from the fire observed on March 29, 2018 has been removed and the Site has been returned to its original condition. At this time, no further compliance measures are necessary.

**II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. 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 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. Respondent entered into an agreement for the disposal of waste that resulted in the open dumping and open burning of waste. Thus, Respondent caused or allowed the open dumping and open burning of waste in a manner that was not approved by the Agency or the Board. The requirement that waste not be burned in a manner not approved by Illinois EPA or the Board is of significant importance to Illinois EPA. In this occasion, the resulting fire was so large that the Roodhouse Fire Department was unable to extinguish it.

2. There is a social and economic benefit in the operation of Respondent's timber mat business.

3. Respondent's business activities are suitable for the area, as long as disposal of any waste produced is conducted in a manner that complies with the Act and Board regulations.

4. Disposing of waste in a manner that complies with the Act and Board regulations was both technically practicable and economically reasonable.

5. No subsequent compliance activities are necessary in this case.

#### **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 the 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 of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
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 1 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. On March 29, 2018, Illinois EPA observed a large fire at a property outside of Roodhouse, Illinois. During the inspection, approximately twenty (20) rows of timber mat stacks 150 feet long and 10 feet tall, covering approximately two (2) acres, were present at the property. The timber mats were burning. Respondent had entered into an agreement for the disposal of those timber mats.
2. The violations ultimately were resolved by Respondents Leon Stutzman and Birch Creek Timber, LLC.
3. The agreed civil penalty takes into account any economic benefit accrued by Respondents.



4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Twenty-one Thousand Dollars (\$21,000.00) will serve to deter further 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. Respondent shall pay a civil penalty in the sum of Twenty-one Thousand Dollars (\$21,000.00) within thirty (30) calendar days from the date the Board adopts and accepts this Stipulation.

**B. Interest and Default**

1. If Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, 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, 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 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 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, IL 62794-9276

2. The 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:

Emma L. Hudspath  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62706

**D. Future Compliance**

1. This Stipulation in no way affects the responsibilities of 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 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 Respondent's payment of the \$21,000.00 penalty, its commitment to cease and desist as contained in Section V.D.2 above, and upon the Board's approval of this Stipulation, Complainant releases, waives and discharges 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 September 28, 2020. Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against 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. 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.

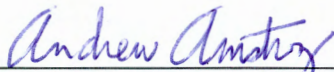
WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

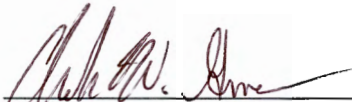
PEOPLE OF THE STATE OF ILLINOIS,  
KWAME RAOUL  
Attorney General  
of the State of Illinois

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

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

JOHN J. KIM, Director  
Illinois Environmental Protection Agency


BY:   
ANDREW ARMSTRONG, Chief  
Environmental Bureau  
Assistant Attorney General

BY:   
CHARLES W. GUNNARSON  
Chief Legal Counsel

DATE: 04/20/2022

DATE: 4/15/22

YAK MAT, LLC

BY:   
Tim Farr, General Counsel

DATE: 1/27/22

**BEFORE THE ILLINOIS POLLUTION BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
<b>by KWAME RAOUL, Attorney General</b>	)	
<b>of the State of Illinois,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>PCB No. 2020-</b>
	)	<b>(Enforcement)</b>
<b>YAK MAT, LLC,</b>	)	
<b>a Mississippi limited liability company,</b>	)	
<b>BIRCH CREEK TIMBER, LLC,</b>	)	
<b>an Illinois limited liability company, and</b>	)	
<b>LEON STUTZMAN, an individual,</b>	)	
	)	
<b>Respondents.</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 pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2020), moves that the Illinois Pollution Control 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) (2020). In support thereof, Complainant states as follows:

1. On September 28, 2020, a Complaint was filed with the Illinois Pollution Control Board (“Board”) in this matter.
2. Complainant and Yak Mat LLC have reached an agreement on all outstanding issues in this matter.
3. This agreement is presented to the Board in a Stipulation and Proposal for Settlement with Yak Mat LLC, filed contemporaneously with this motion.

4. Complainant and Yak Mat LLC agree that a hearing on the Stipulation and Proposal for Settlement with Yak Mat LLC is 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) (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/ Emma L. Hudspath  
EMMA L. HUDSPATH  
Assistant Attorney General  
500 South Second Street  
Springfield, Illinois 62701  
217-557-4635  
emma.hudspath@ilag.gov

Dated: April 22, 2022

**CERTIFICATE OF SERVICE**

I, Emma L. Hudspath, an Assistant Attorney General, certify that on the 22<sup>nd</sup> day of April 2022, I caused to be served a copy of the foregoing **Notice of Filing, Stipulation and Proposal for Settlement as to Yak Mat LLC, and Motion for Relief from Hearing Requirements** thereof on the parties named on the attached Service List, by email and mail, as indicated on the attached Service List.

By: s/ Emma L. Hudspath  
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Environmental Bureau  
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