

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 22-31
	)	(Enforcement - Water)
BEL-ROCK ASPHALT PAVING, INC.,	)	
An Illinois corporation,	)	
	)	
Respondent.	)	

**NOTICE OF FILING**

Please take notice that on Monday, May 23, 2022, I filed a Stipulation and Proposal for Settlement, and Motion to Request Relief from Hearing Requirement in this matter, copies of which are attached and served upon you.

Respectfully submitted,

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

/s Christopher Grant  
CHRISTOPHER GRANT  
Senior Assistant Attorney General  
Environmental Bureau  
69 West Washington Street, Suite 1800  
Chicago, Illinois 60602  
(312) 814-5388  
(312) 814-8567  
Primary email: [Christopher.Grant@ilag.gov](mailto:Christopher.Grant@ilag.gov)  
Secondary email: [Maria.Cacaccio@ilag.gov](mailto:Maria.Cacaccio@ilag.gov)

**CERTIFICATE OF SERVICE**

I, CHRISTOPHER GRANT, an attorney, do certify that I caused the Parties' Stipulation and Proposal for Settlement, Motion to Waive the Requirement of a Hearing, and Notice of Filing to be served this 23rd day of May, 2022, upon the persons listed below by electronic mail.

*/S Christopher Grant*

**SERVICE LIST:**

Mr. Richard Porter  
Hinshaw & Culberston  
100 Park Avenue  
P.O. Box 1389  
Rockford IL 61105-1389  
By electronic mail  
[rporter@hinshawlaw.com](mailto:rporter@hinshawlaw.com)

Mr. Don Brown  
Clerk of the Illinois Pollution Control Board  
(by electronic filing)

Mr. Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
By electronic mail:  
Brad.Halloran@illinois.gov



\* \* \*

3. No hearing is now scheduled in this matter.
4. The Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests relief from the requirement of a hearing pursuant to 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

STEPHEN SYLVESTER, Chief  
Environmental Bureau North

BY: /s/ Christopher Grant  
CHRISTOPHER GRANT  
Senior Assistant Attorney General  
Environmental Bureau  
69 W. Washington St., #1800  
Chicago, Illinois 60602  
(312) 814-5388  
Christopher.grant@ilag.gov



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. At all times relevant to the Complaint, Respondent was and is an Illinois corporation that is authorized to transact business in the State of Illinois.

4. At all times relevant to the Complaint, Respondent owned and operated an asphalt paving, sealcoating, pavement stripping and pothole repair facility located at 5095 Irene Road, Belvedere, Boone County, Illinois ("Facility" or "Site").

5. Complainant alleges that stormwater from the Facility flows in the direction of an unnamed tributary to the South Branch of the Kishwaukee River.

6. Complainant alleges that from April 5, 2017 until June 23, 2021, Respondent did not maintain coverage for the facility under the General National Pollutant Discharge Elimination System ("NPDES") Stormwater Permit for Industrial Activities.

**B. Allegations of Non-Compliance**

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

Count I: Discharge of Stormwater without an General NPDES Stormwater Permit, thereby violating Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

Count II: Violation of General NPDES Stormwater Permit Conditions, thereby violating Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

**C. Non-Admission of Violations**

The Respondent neither admits nor denies the violations alleged in the Complaint filed in this matter and referenced herein.

**D. Compliance Activities to Date**

On June 23, 2021, the Respondent obtained coverage under the General NPDES Stormwater Permit for Industrial Activities. At the time, Respondent had not submitted an up to date Storm Water Pollution Prevention Plan (“SWPPP”). However, Respondent timely submitted their SWPPP on December 17, 2021, thereby fully complying with the requirements of the General NPDES Stormwater Permit for Industrial Activities.

**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. Complainant asserts that Illinois EPA's information gathering responsibilities were hindered by the alleged violations. Respondent's failure to have an approved Stormwater Pollution Prevention Plan also threatened the discharge of contaminants to the environment.

2. There is social and economic benefit to the Facility, provided the Respondent complies with the provisions of the Act, Board regulations, and the General NPDES Stormwater Permit for Industrial Activities.

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

4. Obtaining a permit prior to construction at the Site and compliance with its terms is both technically practicable and economically reasonable.

5. Respondent has subsequently complied with the Act and the Board regulations.

#### **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. Complainant asserts that the Respondent failed to obtain a coverage under the General NPDES Stormwater Permit for Industrial Activities. The alleged violations began on or around April 5, 2017 and were individually resolved on June 23, 2021.
2. Respondent was diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations, once the Illinois EPA notified it of its noncompliance.
3. Complainant asserts that the \$10,000.00 civil penalty will recover any economic benefit resulting from the alleged violations.
4. Complainant asserts, based upon the specific facts of this matter, that a penalty of Ten Thousand Dollars (\$10,000.00) 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**

The Respondent shall pay a civil penalty in the sum of Ten Thousand Dollars (\$10,000.00) 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 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**

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  
1021 North Grand Avenue East  
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:

Christopher J. Grant  
Senior Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602

**D. Future Compliance**

1. Respondent must maintain continuous coverage under the General NPDES Stormwater Permit for Industrial Activities, and shall renew coverage when Illinois EPA issues revised General NPDES Stormwater Permit(s) for Industrial Activities.

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 that were the subject matter of the Complaint.

**E. Release from Liability**

In consideration of the Respondent's payment of the \$10,000.00 penalty, its commitment to cease and desist as contained in Section V.D.4 above, completion of all activities required hereunder, 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 on January 7, 2022. 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 (2020), or entity other than the Respondent.

**F. Enforcement of Stipulation**

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, 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.

**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. This Stipulation may be executed by the parties in one or more counterparts, all of which taken together shall constitute one and the same instrument.

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

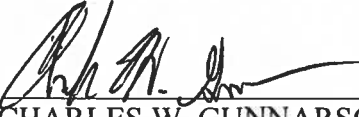
ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

KWAME RAOUL  
Attorney General  
State of Illinois

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

JOHN J. KIM, Director  
Illinois Environmental Protection Agency

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

BY:   
CHARLES W. GUNNARSON  
Chief Legal Counsel

DATE: 5/19/22

DATE: 5/18/22

RESPONDENT  
BEL-ROCK ASPHALT PAVING, INC.

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

DATE: \_\_\_\_\_

*People v. Bel-Rock Asphalt Paving Inc., PCB 22-31*

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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Attorney General  
State of Illinois

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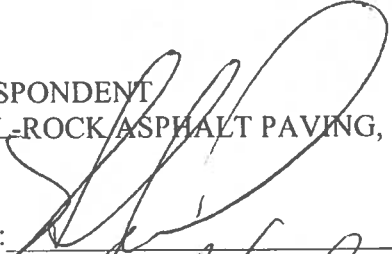
BY: \_\_\_\_\_  
STEPHEN J. SYLVESTER, Chief  
Environmental Bureau  
Assistant Attorney General

BY: \_\_\_\_\_  
CHARLES W. GUNNARSON  
Chief Legal Counsel

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

RESPONDENT  
BEL-ROCK ASPHALT PAVING, INC.

BY:  \_\_\_\_\_

ITS:  \_\_\_\_\_

DATE: 5/3/2022

*People v. Bel-Rock Asphalt Paving Inc., PCB 22-31*