

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME RAOUL, Attorney General	)	
of the State of Illinois,	)	
	)	
Complainant,	)	
	)	PCB No. 24 – 4
v.	)	(Enforcement – Land)
	)	
KIRK V. FELLER, an individual, and FELLER	)	
OILFIELD SERVICE, INC., an Illinois	)	
corporation,	)	
	)	
Respondents.	)	

**NOTICE OF FILING**

To: See attached service list.

PLEASE TAKE NOTICE that I have filed today with the Office of the Clerk of the Pollution Control Board by electronic filing the following Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirement, copies of which are attached and hereby served upon you. **You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.**

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk’s office, or an attorney.

**NOTIFICATION** – YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1 *et seq.*] to correct the alleged violations.

Respectfully submitted,

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

BY: /s/ Kevin D. Bonin  
KEVIN D. BONIN, #6294877  
Assistant Attorney General  
500 South 2<sup>nd</sup> Street  
Springfield, Illinois 62701

(217) 782-5055  
kevin.bonin@ilag.gov

**Service List**

For the Respondents:

Feller Oilfield Service, Inc.  
Attn: Kirk V. Feller, Registered Agent  
Route 40 West  
PO Box 67  
St. Elmo, Illinois 62458-0067

Kirk V. Feller  
Route 40 West  
PO Box 67  
St. Elmo, Illinois 62458-0067

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**STIPULATION AND PROPOSAL FOR SETTLEMENT**

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 Respondents KIRK V. FELLER and FELLER OILFIELD SERVICE, INC. (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. (2022), 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 July 19, 2023, 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 (2022), against the Respondents.

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 (2022).

3. At all times relevant to the Complaint, Respondent Kirk V. Feller (“Respondent Feller”) was and is a resident of Illinois.

4. At all times relevant to the Complaint, Respondent Feller owned the 67-acre property located northwest of 1008 West Cumberland Road, Saint Elmo, Fayette County, Illinois (the “Site”).

5. At all times relevant to the Complaint, Respondent Feller Oilfield Service, Inc. (“Respondent Oilfield Service”) was and is an Illinois corporation that is authorized to transact business in the State of Illinois.

6. At all times relevant to the Complaint, Respondent Oilfield Service operated an oil field services, transportation, road grading, and excavating company.

7. At times better known to Respondents, Respondent Oilfield Service was contracted to remediate an open dump site in Beecher City, Illinois, and deposited the waste removed under such contract at the Site.

8. On November 5, 2019, Illinois EPA conducted an inspection of the Site and observed approximately 100 cubic yards of waste in standing water (“Waste Pit”).

9. On November 6, 2019, Respondents removed the water from the Waste Pit.

10. On November 7, 2019, Illinois EPA re-inspected the Site and observed that the Waste Pit was approximately 25 feet by 50 feet by 12 feet deep and contained railroad ties, tires, plastic pipe, mattress springs, and other various wastes.

11. On December 13, 2019, Illinois EPA re-inspected the Site and observed that the Waste Pit was empty.

12. On January 13, 2020, Illinois EPA requested that Respondents dig test pits at the Site.

13. On May 28, 2020, Illinois EPA re-inspected the Site to observe the excavation of test pits. At the time of the May 28, 2020, inspection, Illinois EPA observed wastes in three of the four test pits.

**B. Allegations of Non-Compliance**

Complainant contends that the Respondents have violated the following provisions of the Act and Board regulations:

- Count I: Open Dumping  
Section 21(a) of the Act, 415 ILCS 5/21(a) (2022)
- Count II: Open Dumping Resulting in Litter  
Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2022)
- Count III: Conducting a Waste Disposal Operation Without a Permit  
Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2022)
- Count IV: Conducting a Waste Disposal Operation Without Submitting a Permit Application to Illinois EPA  
Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2022)  
Section 812.101(a) of the Board's regulations, 35 Ill. Adm. Code 812.101(a)
- Count V: Waste Disposal at an Improper Site  
Section 21(e) of the Act, 415 ILCS 5/21(e) (2022)
- Count VI: Open Dumping of Used or Waste Tires  
Section 55(a)(1) and (a)(5) of the Act, 415 ILCS 5/55(a)(1) and (a)(5) (2022)
- Count VII: Water Pollution  
Section 12(a) of the Act, 415 ILCS 5/12(a) (2022)

Count VIII: Water Pollution Hazard  
Section 12(d) of the Act, 415 ILCS 5/12(d) (2022)

Count IX: Open Dumping Resulting in Deposition of Waste in Standing or Flowing  
Waters  
Section 21(p)(4) of the Act, 415 ILCS 5/21(p)(4) (2022)

**C. Admission of Violations**

The Respondents represent that they have 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 Respondents do 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.

**D. Compliance Activities to Date**

On November 5, 2020, Illinois EPA conducted a re-inspection of the Site and observed that all identified wastes had been removed from the Site.

**II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondents 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 Respondents 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 (2022).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2022), 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. Human health and the environment were threatened and the Illinois EPA's information gathering responsibilities hindered by the Respondents' violations.
2. There is no social and economic benefit to the disposal or burial of wastes at an unpermitted disposal site.
3. Operation of the Site as an unpermitted disposal site was not and is not suitable for the area in which it is located.
4. Disposal of wastes at a permitted landfill is both technically practicable and economically reasonable.
5. Respondents have 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) (2022), 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. Respondents buried and disposed of wastes at an unpermitted disposal site in violation of the Act and the Board's regulations. The violations began or around September 27, 2019, and were resolved on or before November 5, 2020.
2. Respondents were not diligent in attempting to comply with the Act and Board regulations prior to Illinois EPA's discovery of the violations.

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

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Fifty Thousand Dollars (\$50,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondents have no previously adjudicated violations of the Act.

6. Respondents did not voluntarily self-disclose their non-compliance to the Agency.

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 Respondents shall pay a joint and several civil penalty in the sum of Fifty Thousand Dollars (\$50,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

### B. **Interest and Default**

1. If the Respondents fail to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondents 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 Respondents 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:

Kevin D. Bonin  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General’s Office  
500 South Second Street  
Springfield, Illinois 62706

**D. Future Compliance**

1. 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 Respondents’ Site 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.

2. This Stipulation in no way affects the responsibilities of the Respondents to comply with any other federal, state, or local laws or regulations, including but not limited to the Act and the Board Regulations.

3. The Respondents 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 Respondents' payment of the \$50,000.00 penalty, their commitment to cease and desist as contained in Section V.D.3 above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondents 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 July 19, 2023. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondents 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 Respondents' 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 (2022), or entity other than the Respondents.

**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. 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.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

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

AGREED:

FOR THE COMPLAINANT:

PEOPLE OF THE STATE OF ILLINOIS  
by 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  
ANDREW ARMSTRONG, Chief  
Assistant Attorney General  
Environmental Bureau

BY: Charles Gunnarson  
CHARLES GUNNARSON  
Chief Legal Counsel

DATE: 05/23/2024

DATE: 5/15/24

FOR THE RESPONDENTS:

KIRK V. FELLER

FELLER OILFIELD SERVICE, INC.

BY: Kirk V. Feller  
KIRK V. FELLER

BY: Kirk V. Feller

DATE: 4-19-24

Its: OWNER  
[title of signatory]

DATE: 4-19-24

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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by KWAME RAOUL, Attorney General	)	
of the State of Illinois,	)	
	)	
Complainant,	)	
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v.	)	PCB No. 24 – 4
	)	(Enforcement – Land)
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KIRK V. FELLER, an individual, and FELLER	)	
OILFIELD SERVICE, INC., an Illinois	)	
corporation,	)	
	)	
Respondents.	)	

**MOTION FOR RELIEF FROM HEARING REQUIREMENT  
AND NOTICE OF ELECTRONIC SERVICE**

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) (2022), 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) (2022). In support of this motion, Complainant states as follows:

1. The Complaint in this matter alleges violations of Section 12(a) and (d) of the Act, 415 ILCS 5/12(a) and (d) (2022), Section 21(a), (p)(1), (p)(4), (d)(1), (d)(2), and (e) of the Act, 415 ILCS 5/21(a), (p)(1), (p)(4), (d)(1), (d)(2), and (e) (2022), Section 55(a)(1) and (a)(5) of the Act, 415 ILCS 5/55(a)(1) and (a)(5) (2022), and Section 812.101(a) of the Board’s regulations, 35 Ill. Adm. Code 812.101(a).
2. Filed contemporaneously with this Motion is a Stipulation and Proposal for Settlement (“Stipulation”) executed between Complainant and Respondents, KIRK V. FELLER and FELLER OILFIELD SERVICE, INC.

3. The parties have reached agreement on all outstanding issues in this matter.

4. The parties agree that a hearing on the Stipulation 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) (2022).

5. A status hearing regarding this matter is scheduled on July 8, 2024, at 9:00 a.m.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests relief from the requirement of a hearing pursuant to Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2022).

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/ Kevin D. Bonin  
KEVIN D. BONIN, #6294877  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
500 South 2<sup>nd</sup> Street  
Springfield, Illinois 62701  
Ph: (217) 782-5055  
Fax: (217) 524-7740  
kevin.bonin@ilag.gov

**CERTIFICATE OF SERVICE**

I hereby certify that on May 28, 2024, I sent by First Class Mail the foregoing Notice of Filing, Stipulation and Proposal for Settlement, and Motion for Relief from Hearing Requirement to the parties listed below:

Feller Oilfield Service, Inc.  
Attn: Kirk V. Feller, Registered Agent  
Route 40 West  
PO Box 67  
St. Elmo, Illinois 62458-0067

Kirk V. Feller  
Route 40 West  
PO Box 67  
St. Elmo, Illinois 62458-0067

/s/ Cathy Formigoni  
Cathy Formigoni  
Paralegal

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Certificate of Service are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

/s/ Cathy Formigoni  
Cathy Formigoni  
Paralegal