

IN THE CIRCUIT COURT FOR THE NINETEENTH JUDICIAL CIRCUIT  
LAKE COUNTY, ILLINOIS, CHANCERY DIVISION

FILED

PEOPLE OF THE STATE OF ILLINOIS, )  
*ex rel.* KWAME RAOUL, Attorney General of )  
the State of Illinois, and *ex rel.* )  
ERIC F. RINEHART, State’s Attorney )  
for Lake County, Illinois )  
)  
Plaintiff, )  
)  
v. )  
)  
AB SPECIALTY SILICONES, LLC, a Delaware )  
limited liability company, )  
)  
Defendant. )

JUN 10 2022

*Eric Cantagut Weinstein*  
CIRCUIT CLERK

No. 19 CH 665

**CONSENT ORDER**

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, *ex rel.* ERIC F. RINEHART, State’s Attorney of Lake County, Illinois, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), and Defendant, AB SPECIALTY SILICONES, LLC (“ABSS”), (collectively “Parties to the Consent Order”), have agreed to the making of this Consent Order and submit it to this Court for approval.

**I. INTRODUCTION**

This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Court’s entry of the Consent Order and issuance of any injunctive 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 Illinois Pollution Control Board (“Board”) regulations, alleged in the

Complaint except as otherwise provided herein. It is the intent of the Parties to this Consent Order that it be a final judgment on the merits of this matter.

**A. Parties**

1. On May 31, 2019, a Complaint was filed on behalf of the People of the State of Illinois by Kwame Raoul, Attorney General of the State of Illinois, and Eric F. Rinehart State's Attorney of Lake County Illinois, on their own motion and upon the request of the Illinois EPA, pursuant to Section 42(d) and (e) of the Act, 415 ILCS 5/42(d) and (e) (2020), against the Defendant.

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, Defendant ABSS operated a silicon-based products manufacturing facility located at 3790 Sunset Avenue, Waukegan, Lake County, Illinois ("Facility").

4. On May 3, 2019, a catastrophic explosion occurred within the main production building at the Facility ("the Incident").

5. The Incident resulted in the release of chemicals, and debris from the Facility to other areas. Collectively, the Facility and such areas are referred to as the "Site".

**B. Allegations of Non-Compliance**

Plaintiff contends that the Defendant has violated the following provisions of the Act and Board regulations:

Count I: SUBSTANTIAL DANGER TO THE ENVIRONMENT, PUBLIC HEALTH, AND WELFARE, violation of Section 43(a) of the Act, 415 ILCS 5/43(a) (2020);

Count II: AIR POLLUTION, violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020);

- Count III: CAUSING OR ALLOWING WATER POLLUTION, violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020);
- Count IV: CAUSING OR ALLOWING A WATER POLLUTION HAZARD, violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2020);
- Count V: DISCHARGE WITHOUT AN NPDES PERMIT, violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), and Section 309.102 of the Board Regulations, 35 Ill. Adm. Code 309.102.

**C. Non-Admission of Violations**

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

**D. Compliance Activities to Date**

ABSS has complied with and completed its remedial and other obligations under the October 30, 2019 Agreed Preliminary Injunction and Order.

**II. APPLICABILITY**

1. This Consent Order shall apply to and be binding upon the Parties to the Consent Order. The Defendant waives as a defense to any enforcement action taken pursuant to this Consent Order 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 Consent Order. This Consent Order may be used against the Defendant 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. JUDGMENT ORDER**

This Court has jurisdiction of the subject matter herein and of the Parties to the Consent Order and, having considered the stipulated facts and being advised in the premises, finds the following relief appropriate:

#### **IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

##### **A. Civil Penalty**

ABSS shall pay a combined civil penalty of Forty Thousand Dollars (\$40,000.00).

Payment shall be tendered as follows:

1. A certified check or money order in the amount of Thirty Two Thousand Dollars (\$32,000.00) payable to Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payment shall be tendered to the Assistant Attorney General prior to or upon entry of this Consent Order.

2. A certified check or money order in the amount of Eight Thousand Dollars (\$8,000.00), payable to the Lake County State's Attorney's Office Environmental Fund.

Payment shall be tendered to the Assistant State's Attorney prior to or upon entry of the Consent Order.

3. The case name and case number shall appear on the face of the certified checks or money orders.

##### **B. Future Compliance**

1. The Defendant shall continue to pay Illinois EPA oversight costs incurred by the Illinois EPA Bureau of Land after entry of this Consent Order, as provided in Section V.B,

paragraphs 27 through 29, of the October 30, 2019 Agreed Preliminary Injunction and Order.

2. The Defendant shall remain in the Illinois EPA Site Remediation Program until No Further Remediation letters are issued and recorded for the Facility, the Sunset Ditch Area, and the Delaney Outfall Area.

3. The Defendant shall provide all necessary information and cooperate with Illinois EPA as required for issuance of the NFR letter(s). The Defendant shall record each NFR letter within 45 days of receipt from Illinois EPA.

4. ABSS shall not produce any reactive silicone emulsions at the Facility without the prior written consent of Illinois EPA.

5. ABSS is permanently enjoined from producing EM-652 and any other potential hydrogen-producing emulsions at the Facility.

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

7. ABSS shall cease and desist from future violations of the Act and Board regulations that were the subject matter of the Complaint.

**C. Enforcement and Modification of Consent Order**

This Consent Order is a binding and enforceable order of this Court. This Court shall retain jurisdiction over this matter and shall consider any motion by any party for the purposes of interpreting and enforcing the terms and conditions of this Consent Order. The Defendant agrees that notice of any subsequent proceeding to enforce this Consent Order may be made by mail and waives any requirement of service of process.

The Parties to the Consent Order may, by mutual written consent, extend any compliance

dates or modify the terms of this Consent Order without leave of this Court. A request for any modification shall be made in writing and submitted to the representatives designated in Section III.D of this Consent Order. Any such request shall be made by separate document, and shall not be submitted within any other report or submittal required by this Consent Order. Any such agreed modification shall be in writing and signed by authorized representatives of each party, for filing and incorporation by reference into this Consent Order.

**D. Notice and Submittals**

Except for payments, the submittal of any notice, reports or other documents required under this Consent Order, shall be delivered to the following designated representatives:

As to the Plaintiff

Christopher Grant  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
[Christopher.grant@ilag.gov](mailto:Christopher.grant@ilag.gov)

Mark Gurnik  
Assistant Counsel, Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
[Mark.gurnik@illinois.gov](mailto:Mark.gurnik@illinois.gov)

Lisle A. Stalter  
Assistant State's Attorney  
Lake County State's Attorney Office  
18 North County Road, 5<sup>th</sup> floor  
Waukegan, IL 60085  
[lstalter@lakecountyil.gov](mailto:lstalter@lakecountyil.gov)

Jenessa N. Conner  
Remedial Project Management Section  
Illinois Environmental Protection Agency

1021 North Grand Avenue East  
Springfield, Illinois 62794-9276  
[Janessa.n.conner@Illinois.gov](mailto:Janessa.n.conner@Illinois.gov)

As to ABSS

Mac Penman  
General Manager  
AB Specialty Silicones, LLC  
3725 Hawthorn Court  
Waukegan, IL 60087  
[Mac.Penman@andisil.com](mailto:Mac.Penman@andisil.com)

Cathleen M. Devlin  
Saul Ewing Arnstein & Lehr LLP  
Centre Square West  
1500 Market Street, 38th Floor  
Philadelphia, PA 19102  
[cathleen.devlin@saul.com](mailto:cathleen.devlin@saul.com)

Nancy Quattlebaum Burke  
Saul Ewing Arnstein & Lehr LLP  
33 South 6th Street, Suite 4750  
Minneapolis, MN 55402  
[nancy.burke@saul.com](mailto:nancy.burke@saul.com)

**E. Release from Liability**

In consideration of the Defendant's payment of a combined \$40,000.00 civil penalty, its commitment to cease and desist as contained in Section III.B.6 above, its commitment to refrain from producing certain products at its facility, as contained in Sections III.B.4 and III.B.5, and completion of all activities required hereunder, the Plaintiff releases, waives and discharges the Defendant 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 Plaintiff's Complaint filed on May 31, 2019. The Plaintiff reserves, and this Consent Order is without prejudice to, all rights

of the State of Illinois against the Defendant with respect to all other matters, including but not limited to the following:

- a. criminal liability;
- b. liability for future violations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. the Defendant's failure to satisfy the requirements of this Consent Order.

Nothing in this Consent Order 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), other than the Defendant.

**F. Execution and Entry of Consent Order**

This Order shall become effective only when executed by all Parties to the Consent Order and the Court. This Order may be executed by the parties in one or more counterparts, all of which taken together shall constitute one and the same instrument. The undersigned representatives for each party certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Consent Order and to legally bind them to it.

WHEREFORE, the parties, by their representatives, enter into this Consent Order and submit it to this Court that it may be approved and entered.

AGREED:



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

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

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

DATE: 5/26/22

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

JOHN J. KIM, Director  
Illinois Environmental Protection Agency

BY: Charles W. Gunnarson  
CHARLES W. GUNNARSON  
Chief Legal Counsel

DATE: 5/24/22

*ex rel.* ERIC F. RINEHART, State's Attorney  
for Lake County, Illinois

BY: \_\_\_\_\_  
LISLE A. STALTER  
Assistant State's Attorney

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

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

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

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

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: \_\_\_\_\_

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

*ex rel.* ERIC F. RINEHART, State's Attorney  
for Lake County, Illinois

BY:   
LISLE A. STALTER  
Assistant State's Attorney

DATE: May 20, 2022

FOR THE DEFENDANT:

ABSS SPECIALTY SILICONES LLC

BY: 

Its: General Manager

DATE: May 31<sup>st</sup>, 2022

ENTERED:

  
JUDGE

DATE: 6/10/22

People v. AB Specialty Silicones Inc., 19 CH 665