

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT  
LAWRENCE COUNTY, STATE OF ILLINOIS**

PEOPLE OF THE STATE OF ILLINOIS,	)	
ex rel. KWAME RAOUL, Attorney General	)	
of the State of Illinois,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 2024-CH-
	)	
INDIAN LIBERTY LLC, a Florida limited	)	
liability company,	)	
	)	
Defendant.	)	
	)	

**AGREED INTERIM ORDER**

This cause coming before the Court on the Plaintiff’s Motion for Immediate and Preliminary Injunction pursuant to Sections 42(e) and 43(a) of the Illinois Environmental Protection Act, 415 ILCS 5/42(e) and 43(a) (2022); the parties having been given due notice; the Court having jurisdiction over the parties and subject matter and being duly advised in the premises:

**I. BACKGROUND**

1. On April 19, 2024, a Verified Complaint for Injunctive Relief and Civil Penalties (“Verified 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 Sections 42 and 43 of the Act, 415 ILCS 5/42 and 43 (2022), against the Defendant alleging that a substantial danger to public health and the environment was created

as the result of a release, commencing on or before March 15, 2024, from an oil production facility owned and operated by the Defendant (“Release”). On March 18, 2024, Defendant reported to the Illinois Emergency Management Agency that the Release consisted of 250 barrels of oil and 1,000 barrels of saltwater brine, but Defendant now contends that subsequent analysis showed that the Release did not contain saltwater brine. Pursuant to this Order, Defendant will submit an Incident Causation Report more fully characterizing the amount and composition of the Release.

**A. Parties**

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 Verified Complaint, Defendant Indian Liberty LLC was and is a Florida limited liability company authorized to transact business in the State of Illinois. At all times relevant to the Verified Complaint, Defendant was and is the owner and/or operator of multiple oil production facilities, including the Boyd Facility, located at 6632 Petrolia Lane, Petrolia, Lawrence County, Illinois, on the southwest corner of Petrolia Lane and Lewis Road (“Site”). The Boyd Facility includes an oil/water separation pit.

**B. Allegations of Non-Compliance**

4. In the Verified Complaint, Plaintiff contends that Defendant has violated the following provisions of the Act and Illinois Pollution Control Board (“Board”) regulations due to the Release from the Boyd Facility:

Count I: Substantial Endangerment to the Environment and to Public Health and Welfare

As a result of the Release, Defendant has created circumstances of substantial danger to the environment and to the public health and welfare

within the meaning of Section 43(a) of the Act, 415 ILCS 5/43(a) (2022).

Count II: Water Pollution

As a result of the Release, Defendant has caused, threatened, or allowed water pollution in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022).

Count III: Water Pollution Hazard

As a result of the Release, Defendant has deposited contaminants upon the land so as to create a water pollution hazard in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2022).

Count IV: Violation of Water Quality Standards

As a result of the Release, Defendant caused, threatened, or allowed visible oil to be present in waters of the State in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), and Sections 302.203 and 304.105 of the Board's regulations, 35 Ill. Adm. Code 302.203 and 304.105.

Count V: Cost Recovery

As a result of the Release, Illinois EPA has incurred and will continue to incur costs for response, personnel, and oversight costs, and Illinois EPA is entitled to recover such costs from Defendant pursuant to Section 25c-1(d) of the Act, 415 ILCS 5/25c-1(d) (2022), and Section 5 of the Oil Spill Responders Liability Act, 740 ILCS 113/5 (2022).

5. As more specifically alleged in the Verified Complaint, the Release overtopped the oil/water separation pit at the Boyd Facility and flowed offsite. The Release exited the eastern and northern perimeter of the oil/water separation pit and flowed east and northeast, respectively, into a roadside ditch adjacent to Lewis Road ("Roadside Ditch"). The Release continued northward in the Roadside Ditch, crossed through culverts underneath Petrolia Lane, and entered an unnamed tributary of Muddy Creek. Crude oil and oil sheen were visible on the surface of the Embarras River at Billet Road, located approximately 11 miles downstream from where Muddy Creek joins the Embarras River and approximately 1.5 miles upstream of where

the Embarras River joins the Wabash River.

6. Defendant reports that it took the following response measures: Beginning on or about March 15, 2024, the Defendant hired Bolin Enterprises, with assistance from Marathon Corporation, for clean-up of the Release. On March 15, 2024, among other measures, Bolin deployed booms and staged vacuum trucks at the Roadside Ditch on the north side of Petrolia Lane, Muddy Creek at Bridgeport Road, Embarras River at Kiwanis Park in Lawrenceville, and Embarras River at Billet Lane.

7. Without an adequate and expeditious response by the Defendant, the Release may continue to impact the environment. Moreover, precipitation may also result in the further downstream migration of the Release.

NOW, THEREFORE, the parties having thus agreed, the Court enters the following Order, which shall remain in effect until further order by this Court. IT IS HEREBY ORDERED:

## **II. GENERAL PROVISIONS**

8. This Agreed Interim Order shall apply to and bind the parties hereto.

9. This Agreed Interim Order is not a final resolution on the merits of the Plaintiff's Verified Complaint filed herein; rather, it addresses the Plaintiff's most immediate concerns alleged in the Verified Complaint.

10. By entering into this Agreed Interim Order and complying with its terms, Indian Liberty LLC does not admit any wrongful conduct or violation of any applicable statute, law or regulations thereunder, and this Agreed Interim Order and compliance herewith shall not be interpreted as including such admission.

11. This Court shall retain jurisdiction of this matter for the purposes of interpreting and enforcing the terms and conditions of this Agreed Interim Order.

### **III. INITIAL REMEDIAL ACTION BY DEFENDANT**

12. Defendant shall immediately engage or continue to engage the services of a clean-up contractor specializing in crude oil spill response with adequate resources to consult on, manage, and conduct the remediation of the Roadside Ditch, unnamed tributary, Muddy Creek, Embarras River, and any areas affected by the Release.

13. The Defendant shall maintain in place and reconfigure and repair as necessary booms, adsorbents, and absorbents; (1) in the unnamed tributary to Muddy Creek just before the confluence with Muddy Creek, (2) in Muddy Creek in between the confluence of the unnamed tributary and Bridgeport Road, (3) in Muddy Creek at Bridgeport Road, (4) in the Embarras River at Kiwanis Park, (5) in the Embarras River approximately 1.5 miles upstream from the mouth of the Wabash River, (6) elsewhere within the Site as indicated by conditions and movement of the Release, and (7) in the road ditch along Lewis Road near the Boyd Facility and the road, all in good condition to adsorb and/or absorb crude oil and prevent its migration until such time as Plaintiff provides written approval to discontinue this action.

14. The Defendant shall continue to use vacuum trucks to remove and collect any contaminants associated with the Release from land and water locations impacted by the Release as necessary, specifically including (1) oil pooled up along the booms described above, (2) the Roadside Ditch, (3) the north and west areas of the Boyd Facility, (4) the intermittent tributary that flows from the Roadside Ditch to Muddy Creek, and along and upon (5) Muddy Creek at Bridgeport Road, (6) the Embarras River at Kiwanis Park in Lawrenceville, and (7) the Embarras River at Billet Lane, and (8) elsewhere within the Site as indicated by conditions and movement of the Release until such time as Plaintiff provides written approval to discontinue this action.

15. The Defendant shall maintain in place and reconfigure and repair as necessary all

siphon dams installed by Defendant until such time as Plaintiff provides written approval to discontinue this action.

16. The Defendant shall continue to remove vegetation that was impacted by the Release from land and waters of the State until such time as Plaintiff provides written approval to discontinue this action.

17. The Defendant shall continue to excavate soil impacted by the Release as directed by Illinois EPA until such time as Plaintiff provides written approval to discontinue this action.

18. Unless otherwise agreed to by the parties in writing, Defendant shall submit written progress reports on clean-up operations to the Plaintiff (by facsimile or e-mail) every week beginning with the week that this Order is entered by the Court. Progress reports shall include information regarding personnel and resources at the Site, and the amounts of contaminated media removed.

19. The Defendant shall monitor the Boyd Facility and all impacted areas after each precipitation event and shall continue to take steps to prevent further release or migration of contaminants, until such time as Plaintiff provides written approval that such monitoring is no longer required.

20. Within thirty (30) days of entry of this Agreed Interim Order, the Defendant shall provide to the Plaintiff a list identifying all contacts the Defendant or its contractors have had with local government officials and citizens regarding the Release.

21. For purposes of the preceding paragraphs, “written” notification and approval includes email.

22. Defendant shall properly treat or dispose of all contaminated soils, water and other fluids, groundwater, or wastes recovered or excavated during the response work, and

impacted vegetation and spent material at a facility permitted to accept them. Records detailing the amount of and final disposition of all contaminated soils, water and other fluids, groundwater, or wastes, and impacted vegetation and spent material shall be provided by the Defendant to the Plaintiff within 14 days of Defendant's generation or receipt of such documentation.

23. Defendant shall expeditiously submit applications for and obtain all necessary permits or other approvals required for the discharge, treatment or disposal of contaminated soil, water and other fluids, groundwater, or wastes associated with the Release.

24. The Defendant and its agents, employees, and successors or assigns shall cooperate with Plaintiff's investigation and evaluation of the impacted areas and remediation compliance.

#### **IV. INCIDENT CAUSATION REPORT**

25. Within sixty (60) days of this Agreed Interim Order's entry, the Defendant shall submit to the Plaintiff for review and comment an Incident Causation Report, including an explanation of the causes of the Release, an estimate of the amounts of the Release with supporting calculations and other information, and a description of measures that will be taken to prevent similar releases in Illinois in the future. Should Plaintiff request additional information, Defendant shall submit the requested information within fourteen (14) days of receiving Plaintiff's written request.

#### **V. NOTICES**

26. All submittals and correspondence relating to the requirements of this Agreed Interim Order shall be directed to the following persons:

FOR PLAINTIFF

Kevin Bonin  
Hector Lareau  
Assistant Attorneys General  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9034  
kevin.bonin@ilag.gov  
hector.lareau@ilag.gov

Grace McCarten  
Assistant Counsel  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62704  
(217) 785-8628  
Grace.McCarten@Illinois.gov

Bruce Rodely  
Field Operations Section  
Bureau of Water, Water Pollution Control  
Illinois Environmental Protection Agency  
2309 West Main Street  
Marion, Illinois 62959  
(618) 993-7665  
Bruce.rodely@illinois.gov

Andrew Zajicek  
On-Scene Coordinator  
Office of Emergency Response  
Illinois Environmental Protection Agency  
1101 Eastport Plaza Drive, Suite 100  
Collinsville, Illinois 62234  
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Andrew.zajicek@Illinois.gov

Dan Brennan  
Director  
Office of Oil and Gas Resource Management  
Illinois Department of Natural Resources  
One Natural Resources Way  
Springfield, IL 62702



217-557-0664  
dan.brennan@illinois.gov

FOR DEFENDANT

Melissa Brown  
HeplerBroom LLC  
4340 Acer Grove Drive  
Springfield, IL 62711  
217-993-6077  
Melissa.Brown@heplerbroom.com

### **VI. RIGHT OF ENTRY; SITE ACCESS**

27. In addition to any other authority, Indian Liberty LLC, its respective employees and representatives, grant to the Illinois EPA, its employees, agents and representatives, and the Attorney General, his employees, agents and representatives the right of entry onto all portions of property to which the Defendant has a right of access at all reasonable times for purposes of conducting inspections and evaluating compliance status. In conducting such inspections, Illinois EPA, its employees, agents and representatives, and the Attorney General, his employees, agents and representatives, may take photographs, samples and collect information as they deem necessary.

28. Where any action under this Agreed Interim Order is to be performed in areas owned by or in possession of someone other than the Defendant, the Defendant shall use reasonable efforts to obtain the necessary permission from the third-party landowner to undertake such actions. Reasonable efforts shall include attempts to contact the third-party landowner by telephone and by letter (if time permits) and, if necessary, by offering payment of reasonable compensation for access to the third-party landowner's property. If the Defendant is unable to obtain the necessary access after reasonable efforts, it shall notify the Plaintiff of such refusal by the third party and the Plaintiff will determine, in its discretion, whether it will take

affirmative actions to assist the Defendant in obtaining access to the properties in question, and/or whether Plaintiff will require Defendant to bring an action for entry onto the third party's property pursuant to Section 22.2c of the Act, 415 ILCS 5/22.2c (2022).

**VII. MODIFICATION OF SCHEDULES**

29. The Parties to the Agreed Interim Order may, by mutual consent, extend any compliance dates under this Agreed Interim Order without leave of Court. Any such agreed modification shall be in writing, signed by authorized representatives of each party and incorporated into this Agreed Interim Order by reference.

**VIII. STIPULATED PENALTIES**

30. If the Defendant fails to comply with any of the requirements of this Agreed Interim Order without an agreed modification, the Defendant shall pay to the Plaintiff the following stipulated penalties for each violation, from the date the violation occurred until such time as compliance is achieved:

<u>Period of Noncompliance</u>	<u>Stipulated Penalty</u>
1st to 30th Calendar Day	\$1,250.00/day per violation
31st to 60th Calendar Day	\$1,500.00/day per violation
After 60th Calendar Day	\$1,750.00/day per violation

31. Written notice of any violation of this Agreed Interim Order shall be served upon Defendant via certified or overnight U.S. Mail to the persons identified in Section V (Notices) of this Agreed Interim Order. However, the Plaintiff's failure to give the Defendant notice of the violation(s) does not in any way relieve Defendant of its obligation to pay stipulated penalties hereunder.

32. All penalties owed shall be payable within 30 calendar days after occurrence of the violation(s). Payment shall be made by certified check payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund (“EPTF”) and delivered to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

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

Kevin Bonin  
Hector Lareau  
Assistant Attorneys General  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62706

33. Stipulated penalties shall be in addition to, and not a substitute for, any other remedy or sanction available to Plaintiff.

#### **IX. DISPUTE RESOLUTION**

34. The parties shall use their best efforts to resolve any and all disputes or differences of opinion arising with regard to this Agreed Interim Order, informally and in good faith. If, however, a dispute arises concerning this Agreed Interim Order that the parties are unable to resolve informally, either party may, by written motion, request that an evidentiary hearing be held before the Circuit Court for the Second Judicial Circuit, Lawrence County, Illinois, to resolve the dispute between the parties. At the evidentiary hearing, the Plaintiff’s position shall be affirmed unless the Defendant demonstrates that it is against the manifest weight of the evidence.

## **X. FORCE MAJEURE**

35. For the purpose of this Agreed Interim Order, *force majeure* is an event arising beyond the reasonable control of the Defendant which prevents the timely performance of any of the requirements of this Agreed Interim Order. For purposes of this Agreed Interim Order *force majeure* shall include, but is not limited to, events such as floods, fires, tornadoes, other natural disasters and labor disputes beyond the reasonable control of the Defendant.

36. When, in the opinion of the Defendant, circumstances have occurred that cause or may cause a delay in the performance of any of the requirements of this Agreed Interim Order, Defendant shall notify the Attorney General's Office and the Illinois EPA in writing as soon as practicable, but oral notice shall be given to the Attorney General's Office and the Illinois EPA within 48 hours of the occurrence and written notice shall be given to the Attorney General's Office and the Illinois EPA no later than 10 calendar days after the claimed occurrence. Failure to so notify the Attorney General's Office and the Illinois EPA shall constitute a waiver of any defense under this Section of this Agreed Interim Order arising from said circumstances. The Defendant shall provide a detailed written description of the precise cause or causes of the claimed occurrence which resulted or will result in the delay, the nature of the delay and its expected duration, the measures taken or to be taken to prevent or mitigate the delay and the timetable under which such measures will be taken. The Defendant shall adopt all reasonable measures to avoid or minimize such delay.

37. If the parties agree that the delay has been or will be caused by circumstances beyond the control of the Defendant, the time for performance may be extended for a period equal to the length of the delay as determined by the parties.

38. In the event that the parties cannot agree that a *force majeure* event has occurred or the extent thereof, the dispute shall be resolved in accordance with the Dispute Resolution provisions of this Agreed Interim Order. Provided however, that the invocation of the Dispute Resolution provisions of this Agreed Interim Order do not in and of themselves constitute a *force majeure* event. The Defendant shall have the burden of proving *force majeure* by a preponderance of the evidence as a defense to compliance with this Agreed Interim Order.

39. An increase in costs associated with implementing any requirement of this Agreed Interim Order shall not, by itself, excuse Defendant under the provisions of this Section of the Agreed Interim Order from a failure to comply with such a requirement.

#### **XI. RESERVATION OF RIGHTS**

40. Nothing contained herein shall be deemed a finding of fact or adjudication by this Court of any of the facts or claims contained in the Verified Complaint. The Plaintiff reserves the right to seek additional technical relief and civil penalties in this matter.

#### **XII. STATUS CONFERENCE WITH THE COURT**

41. This matter is set for status on \_\_\_\_\_, 2024 at \_\_\_\_\_ .m. without further notice.

#### **XIII. SIGNATURE**

42. This Agreed Interim Order may be signed in counterparts, all of which shall be considered one agreement.

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

WHEREFORE the parties, by their representatives, enter into this Agreed Interim Order and submit it to the 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: Andrew Armstrong  
ANDREW ARMSTRONG, Chief  
Environmental Bureau  
Assistant Attorney General

DATE: 04/19/2024

FOR THE DEFENDANT:

INDIAN LIBERTY LLC

BY: Brad L Delp  
Its: President

DATE: 4-17-2024

**ENTERED:**

Michael Strange

JUDGE

DATE: 4/26/2024