

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RELIABLE STORES, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 19-2
)	(UST Appeal)
OFFICE OF THE STATE FIRE MARSHAL,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

To:	Patrick D. Shaw	Carol Webb
	Law Office of Patrick D. Shaw	Hearing Officer
	80 Bellerive Road	Illinois Pollution Control Board
	Springfield, Illinois 62704	1021 North Grand Avenue East
	Pdshaw1law@gmail.com	P.O. Box 19274
		Springfield, Illinois 62794-9274
		Carol.Webb@Illinois.gov

PLEASE TAKE NOTICE that on the 16th day of March, 2020, I caused to be filed with the Clerk of the Illinois Pollution Control Board the Motion to Supplement the Record, on behalf of the Respondent, Office of the State Fire Marshal, true and correct copies of which are attached hereto and hereby served upon you.

OFFICE OF THE STATE FIRE MARSHAL

By: /s/ Daniel Robertson
Daniel Robertson
Assistant Attorney General
Environmental Bureau
69 W. Washington St., 18th Floor
Chicago, IL 60602
(312) 814-3532
drobotson@atg.state.il.us

CERTIFICATE OF SERVICE

I, DANIEL ROBERTSON, an Assistant Attorney General, do certify that I caused to be served this 16th day of March, 2020, the attached Notice of Electronic Filing and Motion to Supplement the Record (R91-92), upon the persons listed on the Notice of Electronic Filing *via email*.

/s/ Daniel Robertson
DANIEL ROBERTSON
Assistant Attorney General
Environmental Bureau
69 W. Washington St., 18th Floor
Chicago, IL 60602
(312) 814-3532
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MOTION TO SUPPLEMENT THE RECORD

Respondent, OFFICE OF THE STATE FIRE MARSHAL (“OSFM”), by Kwame Raoul, the Attorney General of the State of Illinois, presents its motion to supplement the record and states as follows:

1. On August 27, 2018, Reliable Stores, Inc. filed with the Illinois Pollution Control Board (“Board”) an Amended Petition for Review of OSFM Determination. On September 6, 2018, the Board accepted the petition for hearing.
2. The September 6, 2018 Board Order required the Respondent to file the entire record of its determination by September 26, 2018, unless the Board or the hearing officer ordered otherwise.
3. On September 21, 2018, the OSFM electronically filed the Record on Appeal. The OSFM also filed a Privilege Log of Documents Withheld From Record. The privilege log included four emails withheld as attorney-client privilege.
4. Section 105.508(b)(4) of the Board’s General Provisions, 35 Ill. Adm. Code 105.508(b)(4), requires that the record must include “any other information the OSFM relied upon in making its determination.”
5. The OSFM, in making its determination, relied in part upon a telephone call

between Deanne Lock, Division of Petroleum and Safety, OSFM, and Brian Morin, Eagle Environmental, a consultant retained by the Petitioner.

6. The only documentation of this telephone conversation exists in the May 11, 2018 e-mail withheld as attorney-client privilege.

7. The OSFM now seeks to supplement the Record on Appeal with the summary of the telephone conversation between Ms. Lock and Mr. Morin, as pages R91-92 of the Record on Appeal, attached hereto as Exhibit A.

8. This record supplement is intended only for the purposes of providing a complete factual record on appeal, pursuant to 35 Ill. Adm. Code 105.508(b)(4), and is in no way to be construed as a waiver of the attorney-client privilege as it applies to the remainder of the May 11, 2018 e-mail, or any other documents currently withheld as attorney-client privilege.

WHEREFORE, Respondent, the Office of State Fire Marshal, hereby requests that the Board or the Hearing Officer enter an order granting this Motion to Supplement the Record and designate the pages attached hereto as Exhibit A as R91-92.

Respectfully submitted,

OFFICE OF STATE FIRE MARSHAL

By KWAME RAOUL
Attorney General of the State of Illinois

BY: /s/ Daniel Robertson
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Assistant Attorney General
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MOTION TO SUPPLEMENT THE RECORD

EXHIBIT A

CONFIDENTIAL
ATTORNEY-CLIENT
PRIVILEGED DOCUMENT

From: Lock, Deanne

Sent: Friday, May 11, 2018 12:00 PM

To: Andryk, Thomas <Thomas.Andryk@Illinois.gov>

Cc: Bradley, Shelly <Shelly.Bradley@Illinois.gov>; Schneller, Fred <Fred.Schneller@Illinois.gov>; Johnson, Scott <Scott.Johnson@Illinois.gov>

Subject: [REDACTED]

[REDACTED]

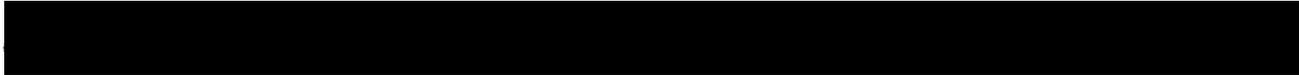
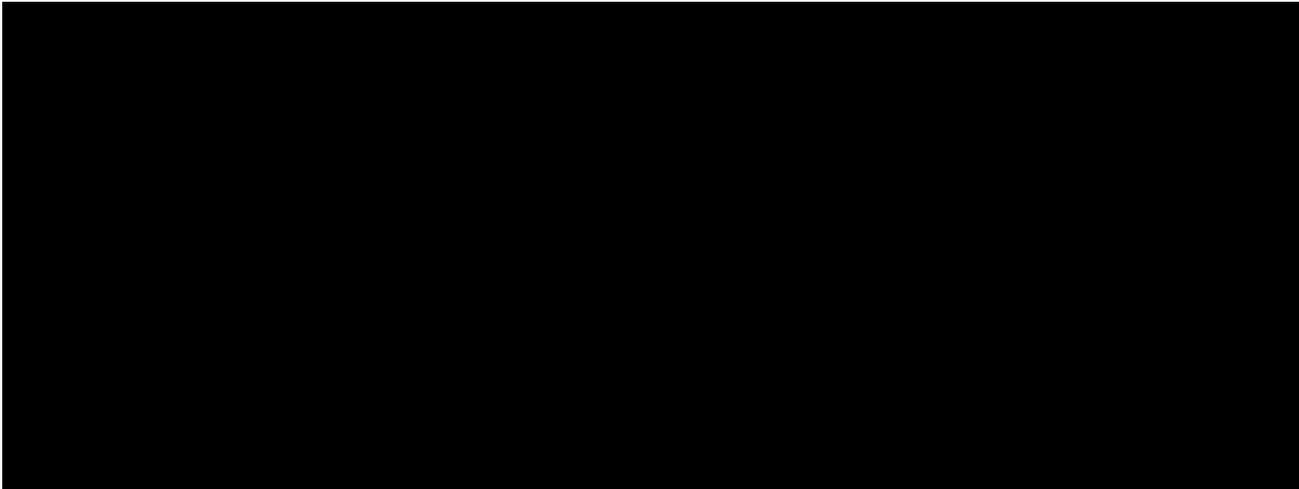
[REDACTED]

[REDACTED] After review of the file, I made a phone call to Inspector Carben to discuss what he found at the facility. He stated there was a leak which found inside dispensers which were located above the shear valve. I then made a call to Brian Morin of Eagle Environmental to discuss the information he provided on the E & D Application regarding the type of release as well as Inspector's Carben's remarks as to where the leak was located. Brian Morin stated to me that the leak was above the shear valve.

[REDACTED]

[REDACTED]

[REDACTED]



CONFIDENTIAL
ATTORNEY-CLIENT
PRIVILEGED DOCUMENT

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