

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

PAK-AGS, INC.,)	
Petitioner,)	
v.)	PCB 15-14
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

NOTICE OF FILING AND PROOF OF SERVICE

TO: John T. Therriault, Clerk	Carol Webb
Illinois Pollution Control Board	Hearing Officer
100 West Randolph Street	Illinois Pollution control Board
State of Illinois Building, Suite 11-500	1021 N. Grand Avenue East
Chicago, IL 60601	P.O. Box 19274
	Springfield, IL 62794-9274

Melanie Jarvis
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
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PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board, pursuant to Board Procedural Rule 101.302 (d), **Petitioner's RESPONSE TO MOTION FOR LEAVE TO FILE REPLY**, a copy of which is herewith served upon the hearing officer and upon the attorneys of record in this cause.

The undersigned hereby certifies that a true and correct copy of this Notice of Filing, together with a copy of the document described above, were today served upon the hearing officer and counsel of record of all parties to this cause by enclosing same in envelopes addressed to such attorneys and to said hearing officer with postage fully prepaid, and by depositing said envelopes in a U.S. Post Office mailbox in Springfield, Illinois on the 17TH day of November, 2014.

Respectfully submitted,
PAK-AGS, INC., Petitioner

BY: MOHAN, ALEWELT, PRILLAMAN & ADAMI

BY: /s/ Patrick D. Shaw

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PETITIONER’S RESPONSE TO MOTION FOR LEAVE TO FILE REPLY

NOW COMES Petitioner, PAK-AGS, INC., by its undersigned attorney, pursuant to Section 101.500(d) of the Board’s Procedural Rules, 35 Ill. Adm. Code 101.500(d), in response to the Motion for Leave to File Reply, states as follows:

1. In its response brief, the Illinois EPA took the position that “[t]he Illinois EPA has determined that the shear valve is part of the UST system and eligible.” (Resp. Brief, at p. 10)
2. This determination is not referenced in the Illinois EPA’s subject denial letter.
3. This determination was supported in the Response Brief by an extended discussion of the shear valve, its function and its location that is not supported by any citation to the record or by any legal authority. (Resp. Brief, at pp. 11-12)
4. Instead of requesting that the Board strike or disregard this unsupported testimony from legal counsel, Petitioner decided to identify official documents pertaining to the shear valve, including one that is referenced and incorporated into the OSFM regulations under discussion.
5. Similarly, the Illinois EPA took the position in its response brief that the quick claim deed should not be considered, because *inter alia*, the deed is somehow not bona-fide (“whether property was for sale, how long it was on the market, asking price, price paid, and who took actual title?”) (Response Brief, at p. 14)

6. The recorded copy of the quick claim deed is offered as prima facie evidence that Petitioner no longer owns the property. It is not intended to rebut every conspiracy theory that can be projected onto a document, but in the time it took for the Illinois EPA to search two government websites, the Illinois Secretary of State and the Office of the State Fire Marshal, it could just has easily checked with the Madison County Tax Assessor's Office on the internet.

7. While judicial use of internet sources appears to be an emerging phenomena, there does not appear to be much controversy concerning official documents put on the internet by government agencies to advise the public. E.g., People v. Young, 355 Ill. App. 3d 317, 321 (2nd Dist. 2005) (rejecting motion to strike evidence not in record on appeal, stating that "we may take judicial notice of information that the Department of Corrections has provided on its website."); National Info. Servs. V. Gottsegen, 737 So.2d 909, 916 FN1 (La. App. Ct. 1999) ("we see no reason why a government Internet site should not be considered as much an official government document as any printed pamphlet or other materials. Internet sites are available to the general public, as much or more than a document or book in a law library.")

CONCLUSION

WHEREFORE, Petitioner asks the motion be denied, and for such other and further relief as the Board deems meet and just.

Respectfully submitted,

PAK-AGS, INC., Petitioner,

By: MOHAN, ALEWELT, PRILLAMAN & ADAMI

By: /s/ Patrick D. Shaw

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