February 6, 2023

Barbara Flynn-Currie, Chairperson Pollution Control Board 60 E. Van Buren Street, Suite 630 Chicago, IL 60605 RECEIVED

FEB 1 4 2023

STATE OF ILLINOIS
Pollution Control Board

RE: Reliable Stores, Inc v. OSFM, PCB 2019-002 (LUST Permit Appeal)

Dear Honorable Ms. Flynn-Currie:

The above matter was remanded by the 1st Appellate District with instructions for the Pollution Control Board (hereinafter "PCB" or "Board") to issue an E & D decision in favor of eligibility and to determine the deductible. The Office of the State Fire Marshal ("OSFM") has since learned that Reliable Stores, Inc. was involuntarily dissolved by the Illinois Secretary of State at some point after Reliable Stores, Inc. initially filed its appeal of the OSFM decision to the PCB. OSFM intends to issue the E & D decision as to Reliable Stores, Inc. before the statutory deadline of March 13, 2023 because OSFM believes it is statutorily bound to issue an E & D decision only to the original entity that filed the request. While OFSM intends to fully comply with the Appellate District's order within the boundaries of OSFM's statutory authority, in the spirit of transparency, OSFM wishes to make parties aware of the administrative obstacle it is facing. OSFM is therefore inviting direction from PCB as to how to proceed in light of Reliable Store's Inc.'s dissolved corporate status and whether the Board would have an objection to OSFM taking the course of action outlined above.

Thank you for considering this question. As noted, due to a statutory deadline of 60 days in which to issue such determination, OSFM is obligated to take action by March 13, 2023. Consequently, OSFM would kindly request the Board to respond or provide its input in three weeks, or by not later than February 27, 2023, if at all possible. Barring feedback to the contrary by that date, OSFM will plan to proceed as outlined above. I can be reached at 217-785-5758 or at Thomas.Andryk@illinois.gov. Please let us know if you have any questions regarding this matter, and thank you for considering OSFM's question.

Sincerely,

Tom Andryk

Technical Advisor III and Agency Counsel

Enclosure

cc: Marie Tipsord, General Counsel Pollution Control Board 60 E. Van Buren Street, Suite 630 Chicago, IL 60605

> Patrick D. Shaw, Counsel for Reliable Stores, Inc. Law Office of Patrick D. Shaw 80 Bellerive Road Springfield, IL 62704-3190

Appellate Court First District State of Illinois 160 North LaSalle Street, Rm S1400 Chicago, Illinois 60601

November 18, 2022

Illinois Pollution Control Board 60 E. Van Buren Street Suite No.: 630 Chicago, IL 60605

Attention: Don A. Brown, Clerk

RE: OFFICE OF THE STATE FIRE MARSHAL v. ILLINOIS POLLUTION CONTROL

BOARD

General No.: 1-21-0507

County: Illinois Pollution Control Board

Trial Court No: 19-02

Attached is the Mandate of the Appellate Court in the above entitled cause.

We are sending the attorneys of record a copy of this letter to inform them that the mandate of the Appellate Court has been filed with you.

Thomas D. Palella Clerk of the Appellate Court

c: Attorney General of Illinois - Civil Division Marie E. Tipsord Patrick Dayle Shaw Vanessa Cordonnier Horton

2022 IL App (1st) 210507

FIFTH DIVISION September 30, 2022

No. 1-21-0507

IN THE APPELLATE COURT OF ILLINOIS FIRST JUDICIAL DISTRICT

THE OFFICE OF THE STATE FIRE MARSHAL,)	Petition for Direct Administrative Review of the Order of the
Petitioner-Appellant,)	Illinois Pollution Control Board.
)	
v.)	PCB No. 19-02
)	
THE ILLINOIS POLLUTION CONTROL BOARD)	
and RELIABLE STORES, INC.,)	
)	
Respondents-Appellees.)	

PRESIDING JUSTICE DELORT delivered the judgment of the court, with opinion. Justices Connors and Mitchell concurred in the judgment and opinion.

OPINION

The Office of the State Fire Marshal (Fire Marshal) has filed a petition for direct administrative review of the final decision of the respondent Illinois Pollution Control Board (Board), which had granted summary judgment in favor of respondent Reliable Stores, Inc. (Reliable), a company that owns and operates a gas station in Maywood. The Board also denied the Fire Marshal's cross-motion for summary judgment. Reliable sought reimbursement from the Underground Storage Tank Fund (UST Fund) after the Fire Marshal found two gas leaks originating from the gas station's above-ground dispensers. The Fire Marshal determined that the leaks did not qualify as underground-storage-tank-related releases because they occurred above-