

ILLINOIS POLLUTION CONTROL BOARD
March 2, 2023

RELIABLE STORES, INC.,)	
)	
Complainant,)	
)	
v.)	PCB 19-02
)	(UST Appeal)
OFFICE OF THE STATE FIRE)	
MARSHAL,)	
)	
Respondent.)	

ORDER OF THE BOARD (by B. F. Currie):

On February 14, 2023, the Board received a letter from the Office of the State Fire Marshal (OSFM). The letter (OSFM Letter) makes a request of the Board regarding an underground storage tank appeal, Reliable Stores, Inc. v. Office of the State Fire Marshal, PCB 19-2. Although this docket is closed, the Board interprets the letter as a motion for relief from the final order under 35 Ill. Adm. Code 101.904(b). Therefore, the Board allowed 14 days for the respondent, Reliable Stores, Inc. (Reliable), to respond.

OSFM reports to the Board that in the process of making a deductible determination in this matter, it has learned that Reliable was involuntarily dissolved by the Secretary of State. OSFM Letter at 1. The Secretary of State’s website lists Reliable’s involuntary dissolution date as November 10, 2020. In its letter to the Board, OSFM says, “OSFM intends to issue the E & D [Eligibility and Deductible] 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.” *Id.* OSFM asks the following of the Board, “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.” *Id.*

The Board cannot make an Eligibility and Deductibility Determination in this or any other underground storage tank appeal. That authority is conferred solely on the Office of the State Fire Marshal, per the Environmental Protection Act, 415 ILCS 57.9(c) (2020); *cf. id.* (Board has authority to hear *appeals of OSFM’s* Eligibility and Deductibility Determinations). The Board’s final order in this matter held, “3. The Board remands this matter for OSFM to determine Reliable’s applicable UST fund deductible.” Reliable Stores, Inc., v. Office of the State Fire Marshal, PCB 19-2, slip op. at 8 (April 1, 2021). In its decision on the appeal filed by OSFM, the Appellate Court affirmed that Board order. Office of the State Fire Marshal v. Illinois Pollution Control Board, 2022 IL App (1st) 210507.

Both in the case before the Board and in the appeal to the First District, OSFM was represented by the Office of the Illinois Attorney General. If the Fire Marshal is seeking

guidance in how to move forward with a deductibility determination for a now-dissolved entity, it would be appropriate for the Fire Marshal to request legal advice from the Assistant Attorneys General that represented OSFM in this matter. The Board is unable to offer the Office of the State Fire Marshal legal advice. Reliable has not responded to OSFM's motion.

Therefore, the Board denies OSFM's motion requesting direction from the Board as to how to proceed with Reliable's deductible determination.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 2, 2023 by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink and is positioned above the printed name and title.

Don A. Brown, Clerk
Illinois Pollution Control Board