

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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MAR 31 2005

STATE OF ILLINOIS
Pollution Control Board

FREEDOM OIL COMPANY,)	
)	PCB No. 03-54
Petitioner,)	PCB No. 03-56
)	PCB No. 03-105
v.)	PCB No. 03-179
)	PCB No. 04-02
ILLINOIS ENVIRONMENTAL)	(LUST Fund/UST Appeal)
PROTECTION AGENCY,)	(Consolidated)
)	
Respondent.)	

NOTICE

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

Diana M. Jagiella
Howard & Howard
One Technology Plaza
Suite 600
211 Fulton Street
Peoria, IL 61602-1350


Carol Webb, Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue, East
P.O. Box 19274
Springfield, IL 62794-9274

PLEASE TAKE NOTICE that I have today filed with the office of the Clerk of the Pollution Control Board a MOTION FOR CONTINUANCE AND EXTENSION OF TIME, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent



John J. Kim
Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)
Dated: March 29, 2005

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**MOTION FOR CONTINUANCE OF HEARING AND
FOR EXTENSION OF TIME TO FILE RECORDS AND RESPONSES**

NOW COMES the Respondent, the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, John J. Kim, Assistant Counsel and Special Assistant Attorney General, and, pursuant to 35 Ill. Adm. Code 101.500, 101.502, and 101.522, hereby requests that the Hearing Officer assigned to these appeals by the Illinois Pollution Control Board (“Board”) grant a continuance of the date presently set for a hearing in the above consolidated matters and an extension of time for filing the related administrative records and discovery responses. In support of this motion, the Illinois EPA states as follows:

1. The Petitioner, Freedom Oil Company (“Freedom Oil”), filed appeals of numerous final decisions issued by the Illinois EPA. The cases are described above and were previously consolidated by the Board. The appeals are all subject to an open waiver of the decision deadline.

2. On February 25, 2005, the Hearing Officer assigned to these appeals issued an order setting the date for hearing on April 6, 2005.

3. The Respondent has yet to file the administrative records in the above appeals, as well as respond to discovery requests filed by the Petitioner. Counsel for the Illinois EPA has

been working to complete those tasks, and has been in contact with counsel for Freedom Oil in the interim. However, counsel for the Illinois EPA has just returned from a two week period of family (paternity) leave, and no work product was generated during that time. Prior to taking the period of leave, counsel for the Illinois EPA was also unexpectedly tasked with additional responsibilities unrelated to these pending appeals, taking up further time that would have otherwise been spent finalizing the administrative records and discovery responses.

4. The Illinois EPA and Freedom Oil have been discussing, and will hopefully continue to discuss, every possible option for amicably resolving this case or, in the alternative, narrowing the issues for the Board's review. In short, the time up to the date of this filing has not been without effort on the part of the Illinois EPA and Freedom Oil in terms of discussing the issues on appeal. The Illinois EPA notes that Freedom Oil is not joining in this motion.

5. To allow for sufficient time for Freedom Oil to review the administrative records, and possibly to allow the parties time to exhaust any remaining possibilities for settlement, the Illinois EPA asks that the hearing in this matter be continued for a period of time no less than thirty (30) days from the current scheduled hearing date of April 6, 2005.

6. Further, the Illinois EPA asks that the Hearing Officer grant an additional extension of time to allow for the filing of the administrative records and discovery responses no later than April 1, 2005.

7. The Illinois EPA recognizes that these requests will further delay the ultimate resolution of these appeals. However, the relative short nature of the requested continuance and extension, along with the legitimate (though unfortunate) circumstances leading to these requests, should provide the Hearing Officer with sufficient grounds for granting the relief

requested. And, as noted above, the additional time may allow the parties further opportunity to explore any remaining options for settlement.

WHEREFORE, for the reasons stated above, the Illinois EPA hereby respectfully requests that the Hearing Officer grant a continuance of the hearing date of a period of time no less than thirty (30) days from April 6, 2005, and an extension of time to file the administrative records and discovery responses related to these appeals.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent



John J. Kim

Assistant Counsel

Special Assistant Attorney General

Division of Legal Counsel

1021 North Grand Avenue, East

P.O. Box 19276

Springfield, Illinois 62794-9276

217/782-5544

217/782-9143 (TDD)

Dated: March 29, 2005

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on March 29, 2005, I served true and correct copies of a MOTION FOR CONTINUANCE AND EXTENSION OF TIME, by placing true and correct copies in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. mail drop box located within Springfield, Illinois, with sufficient First Class postage affixed thereto, upon the following named persons:

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
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Chicago, IL 60601

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