

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

FREEDOM OIL COMPANY,)	
)	
Petitioner,)	PCB 03-54
)	PCB 03-56
vs.)	PCB 03-105
)	PCB 03-179
ILLINOIS ENVIRONMENTAL)	PCB 04-02
PROTECTION AGENCY,)	
)	(UST Appeal)
Respondent.)	(Consolidated)

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STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING


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

Ms. Carol Webb, Hearing Officer
Illinois Pollution Control Board
600 S. Second Street, Suite 402
Springfield, IL 62704

John J. Kim, Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East, P. O. Box 19276
Springfield, IL 62794-9276

PLEASE TAKE NOTICE that on this 15th day of December 2005, the undersigned attorney, Jon S. Faletto, of Howard & Howard Attorneys, P.C., filed the original and nine (9) copies of *Petitioner's Notice to Reinstate Statutory Decision Deadline* with the Illinois Pollution Control Board, a copy of which is herewith served upon you.

HOWARD & HOWARD ATTORNEYS, P.C.

By: 

Jon S. Faletto, Attorney for Petitioner,
Freedom Oil Company

Dated: December 15, 2005
Jon S. Faletto
Howard & Howard Attorneys, P.C.
One Technology Plaza, Suite 600
211 Fulton Street
Peoria, IL 61602
(309) 672-1483
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PETITIONER'S NOTICE TO REINSTATE
STATUTORY DECISION DEADLINE

NOW COMES the Petitioner, FREEDOM OIL COMPANY ("Freedom"), pursuant to 35 Ill. Admin. Code §101.308(c)(1) and files its *Notice to Reinstate Statutory Decision Deadline* in these consolidated Underground Storage Tank ("UST") Fund/UST Appeal proceedings.

In support of its *Notice to Reinstate Statutory Decision Deadline*, Petitioner states:

1. On January 14, 2003, Freedom filed a Petition for Review of UST Fund Reimbursement in response to a decision by the Illinois Environmental Protection Agency ("IEPA") on December 18, 2002 to deny reimbursement of remediation costs incurred by Freedom in connection with LUST Incident No. 20020433. The Board's January 23, 2003 Order accepted the Petition for hearing as PCB Case No. 03-105.

2. On January 21, 2003, Freedom filed a Petition for Review of UST Fund Reimbursement in response to the IEPA's September 20, 2002 denial determination in connection with LUST Incident Nos. 961825; 962059; 20020433; and 20021122. The Board's January 23, 2003 Order accepted the Petition for hearing as PCB Case No. 03-56.

3. On January 21, 2003, Freedom filed a Petition for Review of UST Fund Reimbursement in response to the IEPA's September 17, 2002 denial determination in connection

with LUST Incident No. 20020433. The Board's January 23, 2003 Order accepted the Petition for hearing as PCB Case No. 03-54.

4. Pursuant to Freedom's Motion, the Board's February 20, 2003 Order consolidated PCB 03-54, PCB 03-56 and PCB 03-105.

5. On April 4, 2003, Freedom filed a Petition for Review of UST Fund Reimbursement in response to the IEPA's March 19, 2003 partial denial determination in connection with LUST Incident No. 20020433; 20021122; and 20021420. The Board's April 17, 2003 Order accepted the Petition for hearing as PCB Case No. 03-179 and consolidated PCB 03-179 with pending proceedings PCB 03-54, PCB 03-56 and PCB 03-105.

6. On July 2, 2003, Freedom filed a Petition for Review of UST Fund Reimbursement in response to the IEPA's May 28, 2003 partial denial determination. The Board's July 10, 2003 Order accepted the Petition for hearing as PCB Case No. 04-02 and consolidated PCB 04-02 with PCB 03-54, PCB 03-56, PCB 03-105 and PCB 03-179.

7. On January 29, 2004, Freedom filed an Open Waiver of Statutory Decision Deadline in these consolidated proceedings to allow sufficient time for the Parties to explore the possibility for settlement. Those settlement discussions have not been successful and there is no just reason to delay a decision on the issues raised by Freedom in these proceedings.

8. In the aggregate, IEPA has denied Fund reimbursement of expenses incurred by Freedom in the amount of \$225,848.51. The investigations and remediation mandated by the IEPA have been completed for several years and Freedom's request for reimbursement of the

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\$225,848.51 has been pending since at least July 2003, the date of the last Petition for Review filed by Freedom to contest the IEPA's improper denial of Fund reimbursement.

9. The interests of justice demand a decision on Freedom's Petitions pending since at least July 2003 and the related Motion for Discovery Relief, Motion for Default Judgment or Discovery Sanctions, and Motion for Summary Judgment that have been pending since at least April 4, 2005, the date Petitioner filed its Motion for Summary Judgment.

WHEREFORE the Petitioner, FREEDOM OIL COMPANY, files its *Notice to Reinstate Statutory Decision Deadline* and terminates the open waiver filed on January 29, 2004.

HOWARD & HOWARD ATTORNEYS, P.C.

By:



Jon S. Faletto Attorney for Petitioner,
Freedom Oil Company

Dated: December 15, 2005

Jon S. Faletto
Howard & Howard Attorneys, P.C.
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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this 15th day of December 2005, I have served the attached *Petitioner's Notice to Reinstate Statutory Decision Deadline*, by depositing same via First Class, U.S. Mail, with proper postage prepaid, upon the following persons:

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, IL 60601-3218

John J. Kim, Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East, P. O. Box 19276
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