

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

FREEDOM OIL COMPANY,)
)
 Petitioner,)
)
 vs.)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

PCB 03-54 RECEIVED
PCB 03-56 CLERK'S OFFICE
PCB 03-105 JAN 10 2006
PCB 03-179
PCB 04-02 STATE OF ILLINOIS
Pollution Control Board

(UST Appeal)
(Consolidated)

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 5th day of January 2006, the undersigned attorney, Jon S. Faletto, of Howard & Howard Attorneys, P.C., filed the original and nine (9) copies of Petitioner's *Time Certain Waiver of 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: January 5, 2006
Jon S. Faletto
Howard & Howard Attorneys, P.C.
211 Fulton Street
Peoria, IL 61602
(309) 672-1483

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TIME CERTAIN WAIVER OF STATUTORY DECISION DEADLINE

NOW COMES the Petitioner, FREEDOM OIL COMPANY ("Freedom"), pursuant to 35 Ill. Admin. Code §101.308(c)(2) and files its *Time Certain Waiver of Statutory Decision Deadline* in these consolidated Underground Storage Tank ("UST") Fund/UST Appeal proceedings.

In support of its *Time Certain Waiver of Statutory Decision Deadline*, Petitioner states:

1. In these Consolidated Proceedings, Freedom respectfully requests the Pollution Control Board's review of five individual but related decisions by the Illinois Environmental Protection Agency ("IEPA") to deny reimbursement of investigation, response and remediation costs incurred by Freedom in 2002 and 2003. The investigations and remediation actions mandated by the IEPA and undertaken by Freedom have been completed for several years. Freedom's request for reimbursement of its remediation costs 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 of these expenditures.

2. 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 were not successful.

3. On December 19, 2005, Freedom filed its *Notice to Reinstate Statutory Decision Deadline* to terminate the Open Waiver filed on January 29, 2004.

4. During the January 3, 2006 Status Conference in these proceedings, Hearing Officer Carol Webb advised that pursuant to Freedom's *Notice to Reinstate Statutory Decision Deadline*, the current statutory decision deadline for these Consolidated Proceedings is April 6, 2006.


5. As of this date, there has been no ruling on Freedom's pending *Motion for Discovery Relief*, *Motion for Default Judgment or Discovery Sanctions*, or *Motion for Summary Judgment* filed in these Consolidated Proceedings. Since the Board's decisions on those pending Motions are likely to affect the issues raised in these proceedings and determine the factual issues, if any, remaining to be tried, Freedom believes it would be appropriate to waive the current statutory decision deadline for a period of sixty (60) days.

6. For the foregoing reasons, Petitioner waives the current April 6, 2006 decision deadline for a period of sixty (60) days, to and including June 5, 2006 for the Board's decision in these Consolidated Proceedings.

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WHEREFORE the Petitioner, FREEDOM OIL COMPANY, files its *Time Certain Waiver of Statutory Decision Deadline* to extend the statutory decision deadline in these Consolidated Proceedings to June 5, 2006.

HOWARD & HOWARD ATTORNEYS, P.C.

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

Dated: January 5, 2006

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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