

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

HYDROMET ENVIRONMENTAL, INC.,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

10-17
PCB No. ~~09-~~
(Permit Appeal – Ninety Day Extension)

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AUG 21 2009
STATE OF ILLINOIS
Pollution Control Board

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Pollution Control Board

NOTICE

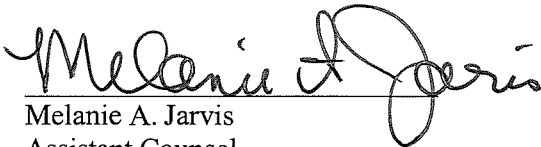
John Therriault, Acting Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

Thomas J. Immel
Felman, Wasser, Draper, & Cox
1307 South 7th Street
P.O. Box 2418
Springfield, IL 62705

PLEASE TAKE NOTICE that I have today filed with the office of the Clerk of the
Pollution Control Board a REQUEST FOR NINETY DAY EXTENSION OF APPEAL
PERIOD, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent



Melanie A. Jarvis
Assistant Counsel
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: August 19, 2009

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REQUEST FOR NINETY DAY EXTENSION
OF APPEAL PERIOD

ORIGINAL

NOW COMES the Respondent, the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, Melanie A. Jarvis, Assistant Counsel, and, pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)(1)) and 35 Ill. Adm. Code 105.208, hereby requests that the Illinois Pollution Control Board (“Board”) grant an extension of the thirty-five (35) day period for petitioning for a hearing to November 24, 2009, or any other date not more than a total of one hundred twenty-five (125) days from the date of service of the Illinois EPA’s final decision. In support thereof, the Illinois EPA respectfully states as follows:

1. On July 20, 2009, the Illinois EPA issued a final decision to the Petitioner. (Exhibit A)

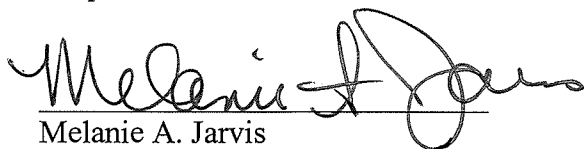
2. On August 18, 2009, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA join in requesting that the Board extend the thirty-five day period for filing a petition to ninety days. The request states that the appeal must be filed no later than August 24, 2009.

3. The additional time requested by the parties may eliminate the need for a hearing in this matter or, in the alternative, allow the parties to identify issues and limit the scope of any hearing that may be necessary to resolve this matter.

WHEREFORE, for the reasons stated above, the parties request that the Board, in the interest of administrative and judicial economy, grant this request for a ninety-day extension of the thirty-five day period for petitioning for a hearing.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent

A handwritten signature in black ink, appearing to read "Melanie A. Jarvis", written over a horizontal line.

Melanie A. Jarvis
Assistant Counsel
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: August 19, 2009

FELDMAN, WASSER, DRAPER & COX

ATTORNEYS AND COUNSELORS AT LAW

July 18, 2009

Howard W. Feldman
Stanley N. Wasser
Carl R. Draper
J. Randall Cox
Kelli E. Gordon

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

Michelle L. Blackburn
Marissa N. Spencer
Jessica L. Reese

Thomas J. Immel,
Of Counsel

Re: Hydromet Environmental (USA), Inc. / Attached Permit Denial Letter dated 2.20.09

Dear Mr. Ingersoll:

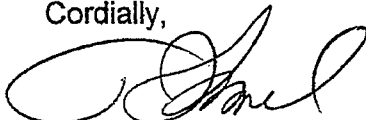
As I have informed you and Steven Nightingale of the Land Permit Section, Hydromet desires to take an appeal to the PCB from the adverse decision rendered in the attached referenced permit denial letter. Such appeal must be filed with the Board no later than Monday, August 24, 2009.

However, in an attempt to avoid the need to appeal, I have had a productive discussion with Mr. Nightingale regarding the possibility of avoiding an appeal if the Agency and I can cooperate in developing a certification, acceptable to the Agency, assuring the Agency that its concerns expressed in the second paragraph of page one of the denial letter have been satisfied. Following that discussion, I sent an email to Steve outlining my thoughts on resolving the problem and the reasons in support thereof. A copy of that email is also attached for your review.

At this point, I reasonably believe that my client and the Agency can resolve this matter without filing of a permit appeal, but there is no assurance that this end can be achieved prior to the 35 day deadline for filing such appeal. That being the case, I believe it best that we all agree to extend the time for filing the appeal per Section 105.208 of the Board's Rules governing permit appeals, and I would ask that the Agency file the motion to do so that we discussed on the phone, attaching this letter & attachments as Hydromet's concurrence and support of the motion.

Please advise ASAP and thank you for your cooperation in this matter.

Cordially,



Thomas J. Immel

1307 South Seventh Street * P.O. Box 2418 * Springfield, Illinois 62705 * 217/544-3403



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-2829
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

DOUGLAS P. SCOTT, DIRECTOR

217/524-3300

July 20, 2009

Certified Mail
7008 1140 0004 7343 2426

Mr. Norman J. Gross
President
11978 Artery Drive
Fairfax, VA 22030

Re: 0418060001 -- Douglas County
Hydromet Environmental (USA) Inc.
ILD984766279
Log No. B-97R-M-14
RCRA Permits File
Permit Denial

Dear Mr. Gross:

This letter is in response to the closure plan modification request dated July 1, 2009 that was signed by you on behalf of Hydromet and submitted by Andrews Environmental Engineering, Inc. This permit modification request is to modify Hydromet's RCRA closure plan by removing the requirement to deconstruct and dispose of the permitted units during closure. Your modification request is denied. The Illinois EPA is required under Section 39(d) of the Illinois Environmental Protection Act (415 ILCS 5/39(d)) to provide the applicant with specific reasons for denial of a permit modification request. The following reasons are given for denial of the permit modification request:

You failed to provide proof that the remaining tanks and equipment will not be abandoned and subject to waste management regulations. Previous closures of hazardous waste units at this facility left the tanks and equipment in non working order and resulted in the tanks and equipment being open dumped behind the facility. Therefore it is necessary that you certify that the tanks are in working order and are being used at the facility or sold to a third party before the closure plan can be modified to remove the requirement for deconstruction and disposal of the tanks and equipment associated with this closure plan. Modification of the closure plan without this information may result in violations of the Illinois Environmental Protection Act, Section 21(d) or (f) and 35 Ill. Adm. Code 724.358.

Within 35 days after the date of mailing of the Illinois EPA's final decision, the applicant may petition for a hearing before the Illinois Pollution Control Board to contest the decision of the Illinois EPA, however, the 35-day period for petitioning for a hearing may be extended for a

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period of time not to exceed 90 days by written notice to the Board from the applicant and the Illinois EPA within the 35-day initial appeal period.

Work required by this letter, your submittal or the regulations may also be subject to other laws governing professional services, such as the Illinois Professional Land Surveyor Act of 1989, the Professional Engineering Practice of 1989, the Professional Geologist licensing Act, and the Structural Engineering Licensing Act of 1989. This permit does not relieve anyone from compliance with these laws and the regulations adopted pursuant to these laws. All work that falls within the scope and definitions of these laws must be performed in compliance with them. The Illinois EPA may refer any discovered violation of these laws to the appropriate regulating authority.

Should you have any questions regarding this matter, please contact Mary Riegler at 217/524-3329.

Sincerely,



Stephen F. Nightingale, P.E.
Manager, Permit Section
Bureau of Land

SFN:MER:bjh\091696s.doc

cc: Sean Chisek, P.E., Andrews Engineering, Inc.

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CLERK'S OFFICE

AUG 21 2009

STATE OF ILLINOIS
Pollution Control Board

CERTIFICATE OF SERVICE

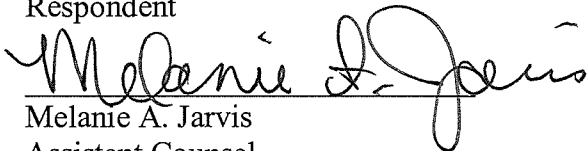
I, the undersigned attorney at law, hereby certify that on August 19, 2009, I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD, via the Board's COOL system and by placing true and correct copies in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. mail drop box located within Springfield, Illinois, with sufficient First Class postage affixed thereto, upon the following named persons:

John Therriault, Acting Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

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