

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	
)	PCB 07-53
MOLINE PLACE DEVELOPMENT, LLC,)	(Enforcement – Water)
and CROSSTOWNE PLACE)	
DEVELOPMENT, LLC,)	
)	
Respondents.)	

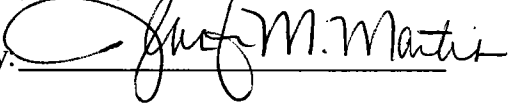
NOTICE OF FILING

TO: Mr. John Therriault	Carol Webb, Esq.
Assistant Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
100 West Randolph Street	1021 North Grand Avenue East
Suite 11-500	Post Office Box 19274
Chicago, Illinois 60601	Springfield, Illinois 62794-9274
(VIA ELECTRONIC MAIL)	(VIA U.S. MAIL)

(PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the **ENTRY OF APPEARANCE OF JENNIFER M. MARTIN, MOTION FOR EXTENSION OF TIME TO FILE RESPONSES TO REQUEST TO ADMIT, and AFFIDAVIT OF MICHAEL R. SHAMSIE** on behalf of MOLINE PLACE DEVELOPMENT, LLC, copies of which are herewith served upon you.

Respectfully submitted,

By: 

Dated: December 22, 2009

Jennifer M. Martin
HODGE DWYER & DRIVER
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

THIS FILING SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

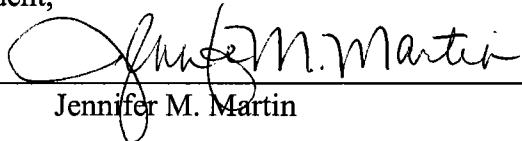
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ENTRY OF APPEARANCE

NOW COMES Jennifer M. Martin, of the law firm of HODGE DWYER & DRIVER, and hereby enters her appearance on behalf of Respondent MOLINE PLACE DEVELOPMENT, LLC, in the above-captioned matter.

Respectfully submitted,

MOLINE PLACE DEVELOPMENT, LLC,
Respondent,

By: 
Jennifer M. Martin

Dated: December 22, 2009

Jennifer M. Martin
HODGE DWYER & DRIVER
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
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**MOTION FOR EXTENSION OF TIME
TO FILE RESPONSES TO REQUESTS TO ADMIT**

NOW COMES Respondent, MOLINE PLACE DEVELOPMENT, LLC (“Moline”), by and through its attorneys, HODGE DWYER & DRIVER, and, pursuant to 35 Ill. Adm. Code § 101.522 and Illinois Supreme Court Rule 183, moves the Hearing Officer or Illinois Pollution Control Board (“Board”) in this matter to enter an Order granting Respondent, MOLINE PLACE DEVELOPMENT, LLC, an extension of time for sixty (60) days, or until January 28, 2010, in which to file its Responses to Complainant’s Request for Admission of Fact and Genuineness of Document Directed to Moline Place Development, LLC. In support of its Motion, Respondent states as follows:

1. “The [Illinois Pollution Control] Board or hearing officer, for good cause shown on a motion after notice to the opposite party, may extend the time for filing any document or doing any act which is required by these rules to be done within a limited period, either before or after the expiration of time.” 35 Ill. Adm. Code § 101.522.

2. On January 3, 2007, the People of the State of Illinois (“the State”) filed a Complaint against Moline in the above-captioned matter, alleging violations of Section 12(a) of the Illinois Environmental Protection Act (“Act”)(415 ILCS 5/12(a)).

Electronic Filing - Received, Clerk's Office, December 22, 2009

3. On October 30, 2009, Complainant filed its Request for Admission of Fact and Genuineness of Documents Directed to Moline Place Development, LLC. Pursuant to the Board's rules at 35 Ill. Adm. Code 101.618(a), answers to requests to admit must be served within 28 days of the date of the request of admission.

4. On November 20, 2009, while the Complainant's Request for Admission of Fact and Genuineness of Documents was pending, counsel representing the interests of Moline, and communicating with the Attorney General's Office on behalf of Moline, in the instant matter ceased her representation of Moline. *See Exhibit A, Affidavit of Michael R. Shamsie.*

5. Moline's Responses to Complainant's Request for Admission of Fact and Genuineness of Documents Directed to Respondent were due November 29, 2009.

6. On December 11, 2009, Moline retained the law firm of HODGE DWYER & DRIVER to represent Moline in the above-captioned matter. *See Exhibit A.*

7. Moline's failure to timely respond to Complainant's Request for Admission of Fact and Genuineness of Documents was unintentional, and Moline did not intend to admit those matters alleged in Complainant's Request for Admission of Fact and Genuineness of Documents.

8. The impact to Moline of deeming admitted those matters addressed in Complainant's Request for Admission of Fact and Genuineness of Documents would be severe.

9. Respondent's Responses to Complainant's Request for Admission of Fact and Genuineness of Documents, are less than thirty (30) days overdue, and no prejudice will

result to any party or to the Board by granting this Motion for Extension of Time to File Responses.

10. For the reasons stated above, good cause exists under 35 Ill. Adm. Code § 101.522 and Illinois Supreme Court Rule 183 to grant the extension of time requested by Moline to remedy its unintentional noncompliance with the deadline for responding to Complainant's Request for Admission of Fact and Genuineness of Documents. *Vision Point of Sale, Inc. v. Ginger Haas*, 226 Ill.2d 334; 785 N.E.2d 1065, 1078-9 (Ill. 2007).

11. Moline Place Development is requesting an extension of time for sixty (60) days, or until January 28, 2010, to respond to Complainant's Request for Admission of Fact and Genuineness of Documents Directed to Moline Place Development, LLC, so that Respondent's counsel may adequately prepare such responses.

WHEREFORE, Respondent, MOLINE PLACE DEVELOPMENT, LLC, respectfully moves the Hearing Officer or Board to enter an Order granting its request for an extension of time for sixty (60) days, up to and including, January 28, 2010, in which to file its Responses to Complainant's Request for Admission of Fact and Genuine of Documents Directed to Moline Place Development, LLC.

Respectfully submitted,

MOLINE PLACE DEVELOPMENT, LLC,
Respondent,

By: 

Jennifer M. Martin

Dated: December 22, 2009

Jennifer M. Martin
HODGE DWYER & DRIVER
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
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AFFIDAVIT OF MICHAEL R. SHAMSIE

I, Michael R. Shamsie, individually and on behalf of Moline Place Development, LLC, being first duly sworn, depose and state as follows:

1. I am the Managing Member of Moline Place Development, LLC, a respondent in the above-captioned matter.

2. Attorney Rynell Beckendorf was representing the interests of Moline Place Development, LLC, in the instant matter until November 20, 2009. Ms. Beckendorf received and reviewed all pleadings filed in the above-captioned matter for Moline Place Development, LLC, and communicated with the Attorney General's Office on behalf of Moline Place Development, LLC.

3. Ms. Beckendorf entered her appearance for Moline Place Development, LLC, in an asbestos enforcement action filed against Moline Place Development, LLC, in Rock Island County Circuit Court in August 2009, and also communicated with Assistant Attorney General Raymond Callery on behalf of Moline Place Development, LLC in that matter. *People of the State of Illinois v. Landmark Engineering Group, Inc., David Lohman, and Moline Place Development, LLC*, No. 09-CH-356 (Rock Island County).

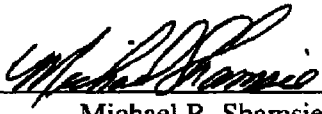
4. Ms. Beckendorf's representation of Moline Place Development, LLC in this proceeding and the Rock Island County Circuit Court proceeding ceased on November 20, 2009. The Attorney General's Office was aware of the termination of representation because Ms. Beckendorf filed a Motion to Withdraw in the Rock Island County Circuit Court proceeding.

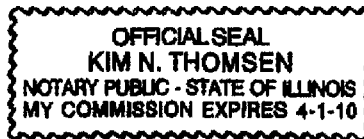
5. Moline Place Development, LLC, acted as expeditiously as possible to find replacement counsel to represent its interests in this proceeding, and retained Hodge Dwyer and Driver on December 11, 2009.

FURTHER AFFIANT SAYETH NOT.

Subscribed and sworn to before me
this 22nd day of December 2009.


Notary Public


Michael R. Shamsie



MOPD:001/Fil/Affidavit of Michael Shamsie

CERTIFICATE OF SERVICE

I, Jennifer M. Martin, the undersigned, hereby certify that I have served the
ENTRY OF APPEARANCE OF JENNIFER M. MARTIN, MOTION FOR
EXTENSION OF TIME TO FILE RESPONSES TO REQUESTS TO ADMIT, and
AFFIDAVIT OF MICHAEL R. SHAMSIE upon:


Mr. John Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

via electronic mail on December 22, 2009; and upon:

Carol Webb, Esq.
Illinois Pollution Control Board
1021 North Grand Avenue East
Post Office Box 19274
Springfield, Illinois 62794-9274

Raymond J. Callery, Esq.
Office of the Attorney General
500 South Second Street
Springfield, Illinois 62706

by depositing said documents in the United States Mail, postage prepaid, in Springfield,
Illinois on December 22, 2009.


Jennifer M. Martin