

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)
 ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 MOLINE PLACE DEVELOPMENT,)
 L.L.C. and CROSSTOWNE PLACE)
 DEVELOPMENT, L.L.C.,)
)
 Respondent.)

**PCB No. 07-53
(Enforcement)**

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

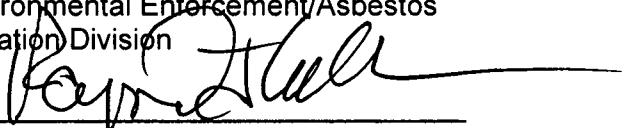
PLEASE TAKE NOTICE that on August 30, 2010, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, a RESPONSE IN OPPOSITION TO RESPONDENT'S MOTION FOR LEAVE TO FILE RESPONSE TO COMPLAINANT'S MOTION FOR SUMMARY JUDGMENT, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois


MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 
Raymond J. Callery
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: August 30, 2010

CERTIFICATE OF SERVICE

I hereby certify that I did on August 30, 2010, cause to be served by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF FILING and RESPONSE IN OPPOSITION TO RESPONDENT'S MOTION FOR LEAVE TO FILE RESPONSE TO COMPLAINANT'S MOTION FOR SUMMARY JUDGMENT upon the persons listed on the Service List.

A handwritten signature in black ink, appearing to read "Raymond J. Callery". The signature is written in a cursive style with a long horizontal stroke at the end.

Raymond J. Callery
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Randall V. TeWinkle
Attorney for Moline Place Dev.
455 Avenue of the Cities
East Moline, IL 61244

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Springfield, IL 62794

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	No. PCB 07-053
)	(Enforcement-Water)
)	
MOLINE PLACE DEVELOPMENT, L.L.C.,)	
and CROSSTOWNE PLACE)	
DEVELOPMENT, L.L.C.,)	
)	
Respondents.)	

**RESPONSE IN OPPOSITION TO RESPONDENT'S MOTION FOR LEAVE
TO FILE RESPONSE TO COMPLAINANT'S MOTION FOR SUMMARY JUDGMENT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, for its Response in Opposition to Respondent's Motion for Leave to File Response to Complainant's Motion for Summary Judgment, states as follows:

1. The Complaint against Moline Place Development, L.L.C. ("Moline Place") was filed on January 3, 2007.
2. Moline Place is an Illinois limited liability company.
3. Section 101.400(a)(2) of the Board's Procedural Rules (35 Ill. Adm. Code. 101.400(a)(2)) requires that any party other than an individual must appear before the Board by an attorney licensed and registered to practice law.
4. From the filing of this Complaint through December 22, 2009, Moline Place was unrepresented by counsel and made no response to the Complaint.
5. On December 22, 2009, Jennifer M. Martin, of Hodge Dwyer & Driver entered her appearance on behalf of Moline Place.
6. On February 24, 2010, Complainant filed its Motion for Summary Judgment against Moline Place.

7. On March 16, 2010, Moline Place's deadline for filing a response to Complainant's Motion for Summary Judgment was extended until May 7, 2010.

8. On May 3, 2010, counsel for Moline Place advised that she was withdrawing from the case without responding to the pending Motion for Summary Judgment. The Hearing Officer made a docket entry at that time noting Moline Place's history of not participating in the case and providing that if Moline Place did not retain new counsel by the next status date of June 1, 2010, the Complainant's Motion for Summary Judgment would be referred to the Board.

9. On May 12, 2010, Hodge Dwyer & Driver filed it's notice to withdrawn from the case with appropriate notice to Moline Place.

10. On June 1, 2010, Michael R. Shamsie, non-attorney agent for Moline Place, participated in the status conference and represented that new counsel would be retained for Moline Place. Moline Place's deadline for responding to Complainant's Motion for Summary Judgment was again extended.

11. On July 12, 2010, Moline Place's purported new counsel (Jason C. Tunquist) participated in the status conference. Moline Place's deadline for responding to Complainant's Motion for Summary Judgment was again extended until July 26, 2010.

12. Mr. Tunquist never entered an appearance on behalf of Moline Place and Moline Place did not respond to Complainant's Motion for Summary Judgment by July 26, 2010.

13. On August 27, 2010, Randall V. TeWinkle entered his appearance on behalf of Moline Place and moved for yet another extension of the deadline for Moline Place to respond to Complainant's Motion for Summary Judgment. Moline Place now seeks to extend the deadline until September 25, 2010.

14. Pursuant to Section 101.516(a) of the Board's Procedural Rules (35 Ill. Adm. Code 101.516(a)) a response to a motion for summary judgment is due within 14 days of service thereof.

Moline Place received a number of extensions of the deadline for filing its response with the final deadline being July 26, 2010.

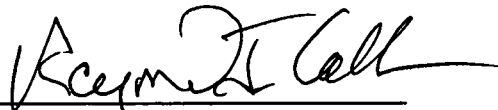
15. With all due respect to Moline Place's current counsel who has just entered his appearance in this matter, ample time has been provided for Moline Place to respond to Complainant's Motion for Summary Judgment with Moline Place missing each of the extended deadlines. No further time should be granted for Moline Place to respond and this matter should be adjudicated by the Board without any further delays.

WHEREFORE, Complainant, People of the State of Illinois, respectfully requests that the motion for a further extension of time to file a response to Complainant's Motion for Summary Judgment brought by Respondent, Moline Place Development, L.L.C., be denied and that Complainant's Motion for Summary Judgment be adjudicated by the Board without any further delays.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
ATTORNEY GENERAL

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 
RAYMOND J. CALLERY
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

Dated: August 30, 2010.