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SEP 22 2010

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

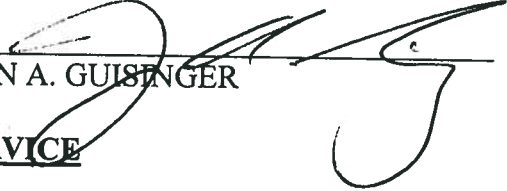
WHEELING/GWA AUTO SHOP,)
)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

PCB No. 10-070
(LUST Appeal - Ninety Day Extension
Granted 3/18/10, Petition Due 6/10/10)

NOTICE OF FILING

TO: See Attached Service List

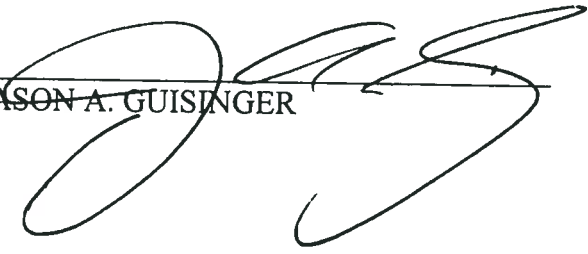
PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board, the **MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO IEPA'S MOTION FOR SUMMARY JUDGMENT & TO WITHDRAW MOTION FOR DEFAULT**, a copy of which is herewith served upon you.



JASON A. GUISSINGER

CERTIFICATE OF SERVICE

I, JASON A. GUISSINGER, certify that I served the foregoing Notice of Filing and **MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO IEPA'S MOTION FOR SUMMARY JUDGMENT & TO WITHDRAW MOTION FOR DEFAULT** upon the parties listed on the attached Service List, by the means listed on the attached Service List, before 4:30 p.m. on September 22, 2010.



JASON A. GUISSINGER

Dennis G. Walsh
Jason A. Guisinger
KLEIN, THORPE AND JENKINS, LTD.
20 North Wacker Drive, Suite 1660
Chicago, IL 60606
(312) 984-6400

SERVICE LIST

VIA HAND DELIVERY

Pollution Control Board
Attn: John Therriault, Clerk
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601-3218

VIA FIRST CLASS MAIL

Division of Legal Counsel
Illinois Environmental Protection Agency
Attn: Melanie A. Jarvis, Ass't Counsel
1021 North Grand Avenue East
P. O. Box 19276
Springfield, IL 62794-9276

VIA FIRST CLASS MAIL

Illinois Environmental Protection
Agency, Bureau of Land
Attn: Michael Piggush
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Springfield, IL 62794-9276

VIA FIRST CLASS MAIL

Bradley P. Halloran, Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

BEFORE THE POLLUTION CONTROL BOARD
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WHEELING/GWA AUTO SHOP,)
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v.) PCB No. 10-070
) (LUST Appeal)
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ILLINOIS ENVIRONMENTAL)
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Respondent.)

**MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO IEPA'S MOTION
FOR SUMMARY JUDGMENT & TO WITHDRAW MOTION FOR DEFAULT**

1. This matter is an appeal of the Illinois Environmental Protection Agency's ("IEPA") final decision denying the request of the Petitioner, Village of Wheeling ("Village"), for reimbursement from the Illinois Leaking Underground Storage Tank Fund ("LUST FUND").
2. On June 10, 2010, the Village filed its Petition for Review of Final Decision and on June 17, 2010, the Board granted said petition.
3. As such, the IEPA was required to file the administrative record by July 12, 2010.
4. However, the IEPA failed to file the administrative record by July 12, 2010; therefore, the Village filed a motion for default on August 13, 2010.
5. Nevertheless, at the August 27, 2010 telephonic status conference, counsel for the Village stated that it would withdraw its motion for default once the IEPA filed the administrative record.
6. On September 3, 2010, the IEPA filed the administrative record in this matter. Thus, the Village is hereby withdrawing its motion for default.

7. Additionally, on September 3, 2010, the IEPA filed a motion for summary judgment. Counsel for the Village received the motion for summary judgment on September 9, 2010.
8. As such, pursuant to 35 Ill. Adm. Code 101.516(a), the Village is required to file a response to the motion for summary judgment within fourteen (14) days of service, i.e., September 23, 2010.
9. However, the wife of counsel for the Village had a baby on September 10, 2010. Moreover, while mother and child are now healthy, there were complications that kept mother and child in the hospital for longer than anticipated. Consequently, counsel for the Village was not able return to work until September 20, 2010. Therefore, counsel requires additional time to adequately respond to the motion for summary judgment.
10. Pursuant to 35 Ill. Adm. Code 101.516(a), a hearing officer may extend the filing deadline for a response to a motion for summary judgment upon motion of party.
11. Further, pursuant to 35 Ill. Adm. Code 101.522, a hearing office may extend a filing deadline for good cause shown, either before or after the expiration of the deadline.
12. The birth of counsel's child and resulting complications constitute good cause for an extension of time to file a response to the motion for summary judgment.
13. Granting the Village additional time to respond to the motion for summary judgment will not prejudice any party or cause undue delay of this matter.
14. Indeed, the decision deadline has been extended to January 8, 2011.

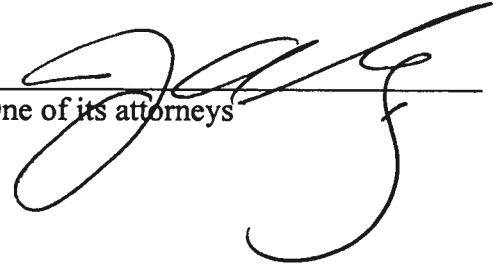
WHEREFORE, Petitioner, Village of Wheeling, respectfully requests that it be granted an additional seven (7) days (until September 30, 2010) to file a response to the Respondent's

motion for summary judgment, that the Petitioner's motion for default be withdrawn, and for further equitable and just relief.

Respectfully submitted,

VILLAGE OF WHEELING

By: _____
One of its attorneys

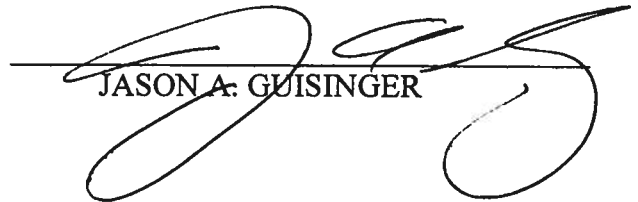
A handwritten signature in black ink, appearing to read 'Jason A. Guisinger', written over a horizontal line.

Dennis G. Walsh
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STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

VERIFICATION

I, JASON A. GUISSINGER, one of the attorneys for the Village of Wheeling, Illinois, being first duly sworn on oath state that I have read the above and foregoing **MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO IEPA'S MOTION FOR SUMMARY JUDGMENT & TO WITHDRAW MOTION FOR DEFAULT** and have knowledge of the contents thereof, and that the facts set forth therein are true and correct in substance and in fact.



JASON A. GUISSINGER

SUBSCRIBED AND SWORN to before
me this 22nd day of September, 2010.

