

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
by LISA MADIGAN, Attorney General)
of the State of Illinois,)

Complainant,)

v.)

THE BOARD OF TRUSTEES OF THE)
UNIVERSITY OF ILLINOIS, a body)
corporate and politic,)

Respondent.)

PCB No. 13-035
PCB No. 13-036
(Enforcement – Air)
(Consolidated)

NOTICE OF ELECTRONIC FILING

TO:

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

Stephen Sylvester
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, IL 60602

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board, Respondent's **NOTICE OF ELECTRONIC FILING, MOTION FOR LEAVE TO FILE STATUS REPORT INSTANTER, FIFTH JOINT STATUS REPORT AND JOINT MOTION TO EXTEND STAY** and **CERTIFICATE OF SERVICE**, copies of which are attached herewith served upon you.

Respectfully submitted,

ICE MILLER, LLP

By: /s/ Nicholas A. Casto
One of its Attorneys

Date: September 20, 2013

Thomas W. Dimond

Isaac J. Colunga

Nicholas A. Casto

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Chicago, Illinois 60606

(312) 726-1567

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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by LISA MADIGAN, Attorney General)	
of the State of Illinois,)	
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)	Complainant,
v.)	PCB No. 13-035
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)	(Enforcement – Air)
THE BOARD OF TRUSTEES OF THE)	(Consolidated)
UNIVERSITY OF ILLINOIS, a body)	
corporate and politic,)	
)	
)	
)	Respondent.

MOTION FOR LEAVE TO FILE STATUS REPORT *INSTANTER*

The Board of Trustees of the University of Illinois (“University”), by its respective attorneys, hereby moves the Illinois Pollution Control Board (the “Board”) for leave to file its Fifth Joint Status Report *instanter*, and states as follows:

1. The Board’s April 18, 2013 Order granted a stay of this matter and required the parties to file separate status reports every 30 days.
2. On August 22, 2013, the Board granted the parties’ Motion to Extend Stay and ordered the parties to file a status report on September 18, 2013.
3. Due to the confusion of the University’s counsel regarding the filing date, the parties failed to file their Fifth Joint Status Report on September 18, 2013.
4. Accordingly, the University requests that the Board grant its Motion For Leave To File Status Report *Instanter*, and permit the parties to file their Fifth Joint Status Report on September 20, 2013.

FOR THE FOREGOING REASONS, the Board of Trustees of the University of Illinois respectfully requests that the Board grant its Motion For Leave To File Joint Status Report *Instanter*.

Date: September 20, 2013

Respectfully Submitted,

**THE BOARD OF TRUSTEES OF THE
UNIVERSITY OF ILLINOIS**

By: /s/ Nicholas A. Casto
One of Its Attorneys

Thomas W. Dimond
Isaac J. Colunga
Nicholas A. Casto
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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Complainant,)	PCB No. 13-035
v.)	PCB No. 13-036
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corporate and politic,)	
)	
Respondent.)	

FIFTH JOINT STATUS REPORT AND JOINT MOTION TO EXTEND STAY

Pursuant to the April 18, 2013 Order of the Illinois Pollution Control Board (“Board”), Complainant, People of the State of Illinois (“State”), and Respondent, The Board of Trustees of the University of Illinois (“University”), by their respective attorneys, hereby provide this Fifth Joint Status Report and Joint Motion to Extend Stay, and respectfully request that this Board extend the stay of proceedings in this matter until October 10, 2013.

1. The Board’s April 18, 2013 Order granted a stay of this matter and required the parties to file separate status reports every 30 days. Counsel for the parties have conferred and agreed upon this Fifth Joint Status Report and Joint Motion to Extend Stay.

2. On January 3, 2013, the University initiated suit in the Circuit Court of Cook County, *The Board of Trustees of the University of Illinois v. Illinois Environmental Protection Agency, et al.*, No. 13-CH-162. The University’s action in the Circuit Court seeks a declaratory judgment that jurisdiction over the State’s claims against the University rests solely with the Illinois Court of Claims.

3. The State filed a motion to dismiss the University's complaint for declaratory relief in the Circuit Court on February 4, 2013 on both Section 2-615(a) and Section 2-619 grounds. A briefing schedule and hearing were established, and the motion was fully briefed.

4. Prior to the April 15, 2013 hearing on its motion, the State withdrew the portion of its motion to dismiss based on Section 2-619.

5. At the April 15, 2013 hearing on the State's motion, Judge Sophia H. Hall of the Circuit Court of Cook County declined to rule on the State's Section 2-615(a) motion to dismiss. Instead, Judge Hall ordered the State to file a motion for judgment on the pleadings pursuant to Section 2-615(e), and granted the University leave to file its own Section 2-615(e) motion. Judge Hall set the following briefing schedule:

- The State has until May 1, 2013 to file a motion for judgment on the pleadings and brief in support.
- The University has until May 22, 2013 to respond and to file a cross-motion for judgment on the pleadings.
- The State has until June 11, 2013 to reply and to respond to any cross-motion.
- The University has until July 5, 2013 to reply.
- A hearing on the State's motion and any cross-motion was set for July 15, 2013.

6. On May 1, 2013, the State filed its Motion for Judgment on the Pleadings and supporting brief.

7. On May 22, 2013, the University filed its Motion for Judgment on the Pleadings, along with its Combined Brief in Support of Its Cross-Motion and Response to Defendants' Motion.

8. On June 11, 2013, the State filed its Reply in Support of Its Motion for Judgment on the Pleadings and Response in Opposition to the University's Cross-Motion for Judgment on the Pleadings.

9. On July 3, 2013, the University filed its Reply in Support of Its Cross-Motion for Judgment on the Pleadings.

10. On July 15, 2013, the parties argued their motions before Judge Hall. Judge Hall took the matter under advisement, and set the motions for decision on September 13, 2013 at 11:00 a.m.

11. On August 15, 2013, the parties submitted a Motion to Extend Stay, requesting that the Board extend the stay of proceedings until September 19, 2013.

12. On August 22, 2013, the Board granted the parties' Motion to Extend Stay and ordered the parties to file a status report on September 18, 2013.

13. At the September 13, 2013 hearing, Judge Hall indicated that she would need additional time to render her decision, and continued the case for decision to October 4, 2013 at 11:00 a.m. *See* Order, September 13, 2013, attached as Exhibit A.

14. Accordingly, the parties jointly request that the Board extend the stay on proceedings in the consolidated enforcement action before the Board until October 10, 2013, with further status reports to be filed October 9, 2013.

FOR THE FOREGOING REASONS, the People of the State of Illinois and the Board of Trustees of the University of Illinois respectfully request that the Board grant their Joint Motion to Extend Stay.

Date: September 20, 2013

Respectfully Submitted,

**THE BOARD OF TRUSTEES OF THE
UNIVERSITY OF ILLINOIS**

By: /s/ Nicholas A. Casto
One of Its Attorneys

Thomas W. Dimond
Isaac J. Colunga
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PEOPLE OF THE STATE OF ILLINOIS,
by **LISA MADIGAN**, Attorney General
of the State of Illinois

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

By: /s/ Stephen J. Sylvester
One of Its Attorneys

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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on September 20, 2013, true and accurate copies of the foregoing were served upon the following counsel, at the address indicated below, by e-mail and/or U.S. Mail:

Stephen Sylvester
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/s/ Nicholas A. Casto
One of Its Attorneys

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

The Board of Trustees of
the University of Illinois

v.

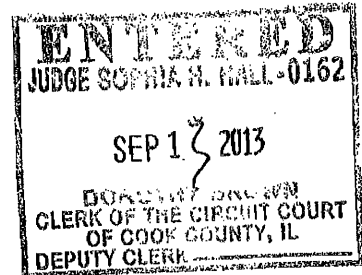
No. 13 CH 00162

The Illinois Environmental
Protection Agency, et al.

ORDER

This matter coming before the Court on the parties' cross-motions for judgment on the pleadings, IT IS HEREBY ORDERED:

- 1. the case is continued for decision to October 4, 2013 at 11:00 AM.



Atty. No.: 39512

Name: Thomas W. Diamond

ENTERED:

Atty. for: Plaintiff

Address: 200 W. Madison Ave, Ste 3500

Dated: _____

City/State/Zip: Chicago, IL 60606

Telephone: 312-726-7125

Judge

Judge's No.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

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