

ILLINOIS POLLUTION CONTROL BOARD

Blake Leasing Company, LLC – Real Estate Series, as	)	
owner of Kirkland Quick Stop,	)	
	)	
Petitioner,	)	PCB No. 16-100
	)	(Water Well Setback Exception)
v.	)	
	)	
Illinois Environmental Protection Agency and Village	)	
of Kirkland,	)	
	)	
Respondents.	)	

PETITIONER'S MOTION TO EXTEND STAY PROCEEDINGS

NOW COMES Petitioner, Blake Leasing Company, LLC – Real Estate Series as owner and operator of the Kirkland Quick Stop (KQS), by and through its attorneys, Hinshaw & Culbertson, LLP, pursuant to 35 Ill. Adm. Code 101.514, and this Honorable Board's prior Order of September 8, 2016, and for its Motion to Extend Stay Proceedings, states as follows:

1. On or about August 22, 2016, the Petitioner filed its initial Motion to Stay Proceedings, along with a Status Report in support of that initial Motion.

2. Thereafter, on September 8, 2016, this Honorable Board entered an Order granting Petitioner's Motion to Stay the cause in question for ninety (90) days until December 7, 2017. That Order further provided that the Petitioner must file a status report at that time detailing the progress made on the amended Petition, and that any additional requests for stay must be directed to the Hearing Officer assigned to this matter.

3. Petitioner's Supplemental Status Report attached hereto as Exhibit A and incorporated herein by this reference as if fully and completely set forth verbatim. As noted by that Supplemental Status Report, the results of the first round of supplemental sampling and testing conducted at the site (which were not received until after Petitioner filed its initial Status Report and initial Motion to Stay) demonstrated certain significant findings, which will require the filing of an amended Petition in this matter.

4. As also noted in the Petitioner's Supplemental Status Report, a second round of sampling was scheduled for November, 2016 to confirm the results of the initial August, 2016 sampling/testing exercise. As of the date of the Petitioner's Supplemental Status Report and this Motion to Extend Stay, test results from the November, 2016 sampling exercise have not been received by Petitioner.

5. In light of the same, the Petitioner requests an additional thirty (30) days in which to file its amended Petition in this matter in the manner and form described in its Supplemental Status Report.

WHEREFORE, Petitioner, Blake Leasing Company, LLC – Real Estate Series, respectfully requests that this Honorable Board grant Petitioner's Motion to Extend Stay Proceedings and enter an Order staying these proceedings for an additional thirty (30) days so as to allow Petitioner to file its Amended Petition, plus enter such other and further relief as this Board deems just and proper.

Dated: December 7, 2016

Respectfully submitted,

On behalf of Blake Leasing Company, LLC –
Real Estate Series

/s/ Charles F. Helsten

Charles F. Helsten
One of Its Attorneys

Charles F. Helsten
HINSHAW & CULBERTSON LLP
100 Park Avenue
P.O. Box 1389
Rockford, IL 61105-1389
815-490-4900
chelsten@hinshawlaw.com

CERTIFICATE OF SERVICE

I, Charles F. Helsten, an attorney, certify that I have served the attached **Petitioner's Motion to Extend Stay Proceedings** on the named parties below by email and U.S. mail, by 5:00 p.m. on December 7, 2016.

Brad Halloran
Hearing Officer
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601
Brad.Halloran@Illinois.Gov

Village of Kirkland
Attn: Mayor Les Bellah
511 W. Main Street
Kirkland, Illinois 60146
Mayor_bellah@mchsi.com

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

Scott A. Puma
Ancel, Glink, Diamond, Bush, DiCianni &
Krafthefer, P.C.
175 East Hawthorn Parkway, Suite 145
Vernon Hills, IL 6061
SPuma@ancelglink.com

Joanne M. Olson
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
Joanne.Olson@Illinois.Gov

/s/Charles F. Helsten

ILLINOIS POLLUTION CONTROL BOARD

Blake Leasing Company, LLC – Real Estate Series, as	)	
owner of Kirkland Quick Stop,	)	
	)	
Petitioner,	)	PCB No. 16-100
	)	(Water Well Setback Exception)
v.	)	
	)	
Illinois Environmental Protection Agency and Village	)	
of Kirkland,	)	
	)	
Respondents.	)	

PETITIONER'S SUPPLEMENTAL STATUS REPORT

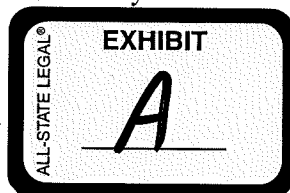
NOW COMES Petitioner, Blake Leasing Company, LLC – Real Estate Series as owner of Kirkland Quick Stop (KQS), by and through its attorneys, Hinshaw & Culbertson, LLP, and for its Supplemental Status Report, states as follows:

1. On or about April 29, 2016, Blake Leasing Company, LLC – Real Estate Series, as owner of Kirkland Quick Stop ("Petitioner"), filed its Petition with this Honorable Board ("Board") requesting an exception to the minimum setback zone for two community wells (Well #1 and Well #2) owned and operated by the Village of Kirkland, Illinois ("Village"). The Petitioner supplemented its Petition on or about May 25, 2016 with responses to certain questions raised by the Board.

2. Thereafter, on or about August 22, 2016, Petitioner filed its Motion to Stay and initial Status Report in support of the Motion to Stay with this Honorable Board.

3. Thereafter, on September 8, 2016, this Honorable Board granted Petitioner's Motion to Stay until December 7, 2016. A copy of said Order is attached hereto and incorporated herein by this reference. That Order further provided that Petitioner must file a Status Report on or before December 7, 2016, detailing progress made on the Amended Petition, and that any additional requests for stay must be directed to the Hearing Officer assigned to this matter.

4. By way of additional background and prefatory comment, Petitioner incorporates its initial Status Report of August 22, 2016 as if fully set forth herein.



5. Subsequent to receipt of the preliminary supplemental sampling results noted in paragraph 6 of its initial Status Report, Petitioner received final, confirmatory test results. Those test results demonstrated that both the area of residual contamination and the existing UST system owned and operated by the Petitioner are outside the minimum setback zone for Well #2 (the primary Village Community well).

6. In addition, those test results demonstrated that the bedrock layer in the area in and around the Village is covered by approximately 30 feet or more of low permeability, silty glacial till. In addition, and related to the same, static water level measurements taken in close proximity to the main Village supply well (Well #2) reflect that water levels in the upper most water-bearing unit (the upper alluvial sand aquifer where small amounts of residual contamination are still found) are not impacted by municipal well pumping activities in the lower bedrock aquifer, which in turn demonstrates there is no direct hydraulic connection between the two aquifers in question. Put a different way, the August testing and sampling exercise indicates that the 30 plus feet of glacial till material that separates the bedrock aquifers from the upper most alluvial aquifer at the site is an effective aquitard which significantly impedes the downward vertical migration of groundwater, and protects the bedrock aquifers in the vicinity of the site from downward vertical contaminant migration of any contaminants present in the upper most alluvial aquifer.

7. The August, 2016 sampling and testing exercise also showed no detectable concentrations of either dissolved or total lead in groundwater, indicating that lead detections previously reported at the site were the result of elevated turbidity levels in groundwater samples due to sampling methods previously employed.

8. Rather, the test results from the August, 2016 sampling exercise showed benzene concentrations slightly in excess of Tier 1, Class 1 Groundwater Remediation Objectives (GROs) in three (3) monitoring wells, and PNA concentrations slightly in excess of GROs in only two (2)

monitoring wells. No other contaminants were detected in excess of allowable limits at any of the monitoring wells sampled at the site.

9. Moreover, the August, 2016 sampling exercise indicated that elevated concentrations of dissolved iron in groundwater showed a direct inverse relationship to dissolved oxygen concentrations in groundwater (that is, where dissolved oxygen concentrations were low, dissolved iron concentrations were high). As such, the occurrence of organic constituents (such as benzene and PNAs) above their respective GROs in groundwater is then directly related to areas of groundwater beneath the site where dissolved oxygen has been depleted. This in turn indicates that significant and effective natural attenuation of these compounds is in fact taking place at the site under proper aerobic biodegradation conditions where adequate quantities of dissolved oxygen are present.

10. Moreover, data derived from sampling of the line of monitoring wells along the Northern border of the site indicate that no petroleum constituents are migrating beyond the KQS property line to the North of the site in excess of GROs.

11. In summary, the August, 2016 sampling exercise indicated the current presence of low concentrations of benzene and PNAs at the site not significantly above GROs. This fact, in conjunction with the apparent ability of the onsite groundwater system to employ dissolved oxygen to attenuate these constituents prior to them migrating offsite suggests a weak residual contamination source, which could be readily addressed by the introduction of additional dissolved oxygen where necessary.

12. A second round of sampling to confirm the results derived from the August, 2016 sampling exercise was scheduled for November, 2016. As of the date of this Supplemental Status Report, no test results have been received by the Petitioner.

13. Upon receipt of final, confirmatory test results from the second round of sampling conducted in November, 2016, Petitioner contemplates filing an Amended Petition which will seek appropriate remedial setback relief, and will propose injection of oxygen (a naturally occurring

substance) in areas needing some incremental amount of attenuation through air sparging (as opposed to the injection of chemical oxidation agents as initially proposed).

14. The Petitioner also contemplates filing a separate petition asking for a setback exception for the existing UST system with respect to Well #1.

WHEREFORE, Petitioner, Blake Leasing Company, LLC – Real Estate Series, respectfully submits this Supplemental Status Report in support of Petitioner's Motion to Extend Stay Proceedings.

Dated: December 7, 2016

Respectfully submitted,

On behalf of Blake Leasing Company, LLC –
Real Estate Series

/s/ Charles F. Helsten

Charles F. Helsten
One of Its Attorneys

Charles F. Helsten
HINSHAW & CULBERTSON LLP
100 Park Avenue
P.O. Box 1389
Rockford, IL 61105-1389
815-490-4900
chelsten@hinshawlaw.com

CERTIFICATE OF SERVICE

I, Charles F. Helsten, an attorney, certify that I have served the attached **Petitioner's Supplemental Status Report** on the named parties below by email and U.S. mail, by 5:00 p.m. on December 7, 2016.

Brad Halloran
Hearing Officer
James R. Thompson Center
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601
Brad.Halloran@Illinois.Gov

Village of Kirkland
Attn: Mayor Les Bellah
511 W. Main Street
Kirkland, Illinois 60146
Mayor_bellah@mchsi.com

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

Scott A. Puma
Ancel, Glink, Diamond, Bush, DiCianni &
Krafthefer, P.C.
175 East Hawthorn Parkway, Suite 145
Vernon Hills, IL 6061
SPuma@ancelglink.com

Joanne M. Olson
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
Joanne.Olson@Illinois.Gov

/s/Charles F. Helsten