

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

ESTATE OF GERALD D. SLIGHTOM,)
 Petitioner,)
 v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
 Respondent.)

PCB 11-25
(UST Appeal)

NOTICE OF FILING AND PROOF OF SERVICE

TO: Carol Webb Melanie Jarvis
 Hearing Officer Illinois Environmental Protection Agency
 Illinois Pollution Control Board 1021 North Grand Avenue East
 1021 N. Grand Avenue East P.O. Box 19276
 P.O. Box 19274 Springfield, IL 62794-9276
 Springfield, IL 62794-9274

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board, pursuant to Board Procedural Rule 101.302 (d), a Motion for Extension of Time to Respond to Motion for Summary Judgment Directed to Hearing Officer, a copy of which is herewith served upon the hearing officer and upon the attorneys of record in this cause.

The undersigned hereby certifies that a true and correct copy of this Notice of Filing, together with a copy of the document described above, were today served upon the hearing officer and counsel of record of all parties to this cause by enclosing same in envelopes addressed to such attorneys and to said hearing officer with postage fully prepaid, and by depositing said envelopes in a U.S. Post Office mailbox in Springfield, Illinois on the 29th day of June, 2011.

Respectfully submitted,
ESTATE OF GERALD D. SLIGHTOM, Petitioner

BY: MOHAN, ALEWELT, PRILLAMAN & ADAMI

BY: /s/ Patrick D. Shaw

MOHAN, ALEWELT, PRILLAMAN & ADAMI
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**MOTION FOR EXTENSION OF TIME TO RESPOND
TO MOTION FOR SUMMARY JUDGMENT DIRECTED TO HEARING OFFICER**

NOW COMES Petitioner, Estate of Gerald D. Slightom, by its undersigned attorneys, pursuant to Section 101.616 of the Board's Procedural Rules (35 Ill. Admin. Code § 101.516), and moves for an extension of time to respond to motion for summary judgment, stating as follows:

1. On June 16, 2011, the Agency filed the record in this case and a motion for summary judgment. Pursuant to the Board's procedural rules, any response to the motion for summary judgment must be filed within 14 days after service of the motion for summary judgment. (35 Ill. Adm. Code § 101.516)

2. Petitioner reviewed the record and motion and determined that it needed to conduct a deposition of the project reviewer in order to collect all of the relevant information to respond to the motion for summary judgment and/or prepare for hearing.

3. Undersigned counsel thereafter asked the Agency's counsel to assist in scheduling the deposition and asked if the Agency would object to an extension of time to respond to the pending motion.

4. Agency's counsel responded that (a) the Agency objects to any discovery in this case, (b) the Agency does not object to a reasonable extension of time to draft an answer to the pending

motion, but (c) the Agency objects to any extension of time if it used to accommodate discovery.

5. Today, Petitioner has filed a motion seeking to compel a deposition, which it incorporates herein by reference.

6. The Board's procedural rules state that the hearing officer "may extend the filing and response deadlines contained in this subsection upon written motion by a party, consistent with any statutory deadlines." (35 Ill. Adm. Code § 101.516)

7. Petitioner asks for an extension of time for two reasons. First, it is seeking to compel the deposition of a witness whose testimony would address the validity and circumstances of the extrinsic evidence proffered by the Agency to deny its application for reimbursement after the application was submitted to the Agency. At this point, the outcome and the time to reach resolution is uncertain. If Petitioner is not allowed time to pursue the requested relief, it will be prejudiced if it is unable to use discoverable information to respond to the motion.

8. Second, and even if the issue of additional discovery were not presented, Petitioner would still need two to three weeks to prepare an answer to the motion, including affidavits in support of the evidentiary issues raised in the Amended Petition for Review of the Agency LUST Decision.

9. Petitioner does not request an extension of time for any improper purpose. Undersigned counsel did not undertake to determine whether he believed a deposition would be needed until he had a chance to review the Agency record.

10. The decision deadline in this case is November 17, 2011. Petitioner will provide whatever waiver of decision deadline is needed to resolve its pending motions.

WHEREFORE, Petitioner prays for an order from the Hearing Officer, extending the deadline to respond to the pending motion for summary judgment until the outstanding discovery

dispute is resolved and concluded, or alternatively, in the event the requested discovery is denied, that Petitioner be given three weeks to file a response, or for such other and further relief as the Hearing Officer deems meet and just.

ESTATE OF GERALD D. SLIGHTOM, Petitioner

BY: MOHAN, ALEWELT, PRILLAMAN & ADAMI

BY: /s/ Patrick D. Shaw

MOHAN, ALEWELT, PRILLAMAN & ADAMI

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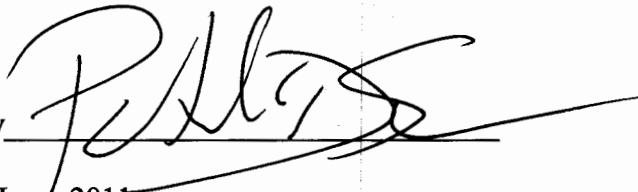
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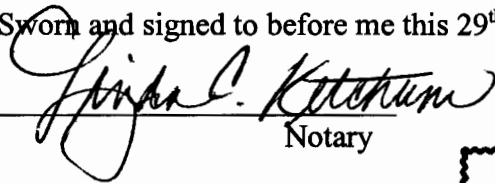
THIS FILING SUBMITTED ON RECYCLED PAPER

VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in Motion For Extension of Time to Respond to Motion for Summary Judgment Directed to Hearing are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

By 

Sworn and signed to before me this 29th day of June, 2011.


Notary



\\Cindy\Mapa\CSD Environmental\Slightom\Motion for Extension.wpd/lck 6/29/11 3:47 pm

THIS FILING SUBMITTED ON RECYCLED PAPER