

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ARNOLD MAGNETIC TECHNOLOGIES,)
)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

PCB No. 2016-097
(Water Permit Appeal)

NOTICE OF ELECTRONIC FILING


To: *VIA EMAIL*
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PLEASE TAKE NOTICE that on the 28th day of November, 2017, the attached Response to Petitioner's Voluntary Motion to Dismiss was filed with the Illinois Pollution Control Board, a true and correct copy of which is attached hereto and is hereby served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

By: 
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RESPONDENT'S RESPONSE TO PETITIONER'S VOLUNTARY MOTION TO DISMISS

Respondent, the Illinois Environmental Protection Agency (the "Illinois EPA"), pursuant to 35 Ill. Adm. Code 101.100 and 101.500, for its Response to Petitioner's Voluntary Motion to Dismiss ("Motion"), hereby states as follows:

1. On January 12, 2011, the Illinois EPA issued Water Pollution Control Permit No. 2011-EO-1001-2 to "Arnold Magnetic Technologies – Arnold Engineering" for the operation of a wastewater treatment and recycle system located at 300 North West Street, Marengo, Illinois.
2. On November 23, 2015, the Illinois EPA received an application to renew Permit No. 2011-EO-1001-2.
3. On February 19, 2016, the Illinois EPA denied the renewal application.
4. On June 27, 2016, Arnold Magnetic Technologies Corporation ("Petitioner") filed its Petition for Review of Wastewater Permit No. 2011-EO-1001-2 regarding the Illinois EPA's denial of the renewal application.
5. On July 20, 2016, Petitioner filed a Time Certain Waiver of Statutory Decision Deadline until and through December 15, 2016 and a Motion to Stay Proceedings, as the parties were involved in settlement negotiations.

6. On July 27, 2016, Respondent filed its Motion to Strike Exhibits D Through I, And All Corresponding Statements and Arguments, of Petitioner's Petition for Review of Wastewater Permit No. 2011-EO-1001-2 ("Motion to Strike").

7. On August 9, 2016, an Order was entered granting Petitioner's Motion to Stay Proceedings filed on July 20, 2016, thereby, among other things, staying the Motion to Strike.

8. Petitioner filed additional Time Certain Waivers of Statutory Decision Deadlines through March 15, 2018 and corresponding Motions to Stay Proceedings, which were granted and, among other things, continued the stay of the Motion to Strike.

9. On August 21, 2017, an Application for Permit to Operate Wastewater Treatment Facilities was submitted to the Illinois EPA, which Larry Cozart, Chief Operating Officer of Arnold Magnetic Technologies Corporation executed on behalf of The Arnold Engineering Co., as applicant ("2017 Application").

10. On November 17, 2017, the Illinois EPA issued Water Pollution Control Permit No. 2017-EO-62619 (the "2017 Permit") to The Arnold Engineering Co for the operation of the wastewater treatment and recycle system located at 300 North West Street, Marengo, Illinois.

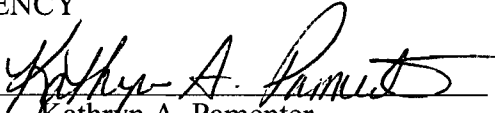
11. On November 27, 2017, Petitioner filed its Motion. In Paragraph 4 of the Motion, Petitioner states, "[o]n November 17, 2017, the Agency issued a Water Pollution Control Permit 2017-EO-62619 for the Facility to Petitioner. The issuance of this permit resolves the issues raised in this appeal by Petitioner." (Motion at p. 3.)

12. Contrary to Petitioner's statement, the 2017 Permit was issued to The Arnold Engineering Co., not the Petitioner. Since any challenge to the Illinois EPA's action on the 2017 Application would necessitate filing a new case with the Board, the submission of the 2017 Application mooted the above-captioned appeal, as opposed to the issuance of the 2017 Permit.

In addition, the Illinois EPA did not issue the 2017 Permit to “resolve[] the issues raised in this appeal by Petitioner.” (Motion at p. 3.) The Illinois EPA may only issue a permit if the permit application meets all requirements of the applicable statutes and regulations, and the permit will not cause a violation of the Illinois Environmental Protection Act or Board regulations. 415 ILCS 5/39 (2016). The statute does not provide for the Illinois EPA to issue a permit to resolve a pending appeal. *Id.* Finally, the Illinois EPA has contested and continues to contest the merits of Petitioner’s above-captioned appeal.

13. To the extent that the order concerning the Motion does not adopt Paragraph 4 of such Motion as written, the Illinois EPA has no objection to the dismissal of the above-captioned appeal.

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

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CERTIFICATE OF SERVICE

I, KATHRYN A. PAMENTER, an Assistant Attorney General, do certify that I caused to be served this 28th day of November, 2017, the attached Notice of Electronic Filing and Respondent's Response to Voluntary Motion to Dismiss upon Susan Franzetti, Bradley Halloran and Don Brown *via email*.

A handwritten signature in black ink, appearing to read "Kathryn A. Pamenter", is written over a horizontal line.

KATHRYN A. PAMENTER

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