

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.)

NOTICE OF FILING

To: See Attached Certificate of Service

PLEASE TAKE NOTICE that on August 22, 2016, Blake Leasing Company, LLC – Real Estate Series filed with the Illinois Pollution Control Board, **Petitioner's Motion to Stay Proceedings and Petitioner's Waiver of Decision Deadline**, a copy of which is attached and served upon you.

Dated: August 22, 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 Stay Proceedings and Petitioner's Waiver of Decision Deadline** on the named parties below by email and U.S. Mail, by 5:00 p.m. on August 22, 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
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Mayor_bellah@mchsi.com

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/s/Charles F. Helsten

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PETITIONER'S MOTION TO STAY PROCEEDINGS

NOW COMES Petitioner, Blake Leasing Company, LLC – Real Estate Series as owner of Kirkland Quick Stop, by and through its attorneys, Hinshaw & Culbertson, LLP, pursuant to 35 Ill. Adm. Code 101.514, and for its Motion to Stay Proceedings, files this Motion directed to this Honorable Board, and states as follows:

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

2. On June 15, 2016, the Illinois Environmental Protection Agency ("Agency") filed its Response to Petitioner's Petition. Within the Agency's Response, the Agency requested certain clarifications and additional documentation for the Board's review prior to a decision being made. Petitioner informed the Hearing Officer that it intended to file a Reply to the Agency's Response whereby Petitioner sought to address the Agency's concerns and provide additional documentation in support of its Petition. During all relevant times, Petitioner was

actively engaged in preparing for that Reply through Petitioner's engagement of an expert who was compiling additional data in support of Petitioner's Petition.

3. On July 19, 2016, a status hearing was held before Hearing Officer Bradley P. Halloran. During said status hearing, Petitioner's Counsel, for the first time, was informed that this matter was scheduled for a July 21, 2016 decision by the Board. Petitioner was surprised to learn that this matter was scheduled for a decision as it had not yet filed its Reply to the Agency's Response, it was actively engaging with its expert and diligently moving this matter forward, and there had not yet been a public hearing regarding Petitioner's Petition as required by 35 Ill. Adm. Code 106.308.

4. On July 19, 2016, Petitioner filed its Emergency Motion to Extend Time to Respond and to Strike Decision Date per 35 Ill. Adm. Code 101.522. On July 20, 2016, the Agency responded to Petitioner's Emergency Motion with no objection to the same.

5. On August 11, 2016, by a vote of 4-0, the Board issued and adopted its Opinion and Order of the Board whereby the Board held that Petitioner's Petition did not adequately address the four elements of 35 Ill. Adm. Code 106.310 and thereby directed Petitioner to file an Amended Petition in order to address the Agency's concerns raised in its June 15, 2016 Response as well as address the Board's concerns raised in its Opinion and Order. Petitioner received this Opinion and Order on August 16, 2016. The Board also noted that Petitioner may seek a stay of this case so as to allow Petitioner time to compose its amended petition. Via this Motion, Petitioner seeks such a stay pursuant to 35 Ill. Adm. Code 101.514.

6. 35 Ill. Adm. Code 101.514 allows for motions to stay proceedings directed to the Board. For the reasons and information set for herein, a stay is needed for Petitioner to have adequate time to file its Amended Petition. Attached hereto as Exhibit A is a status report

detailing the progress of the proceeding. Additionally, attached hereto as Exhibit B is Petitioner's waiver of decision deadline.

7. At all times during this matter, Petitioner was, and currently is, in the process of preparing a reply to the Agency's Response. Given the specificity of the clarifications and further documentation requested by the Agency, Petitioner has retained an additional expert to adequately reply to the Agency's concerns, as well as the additional concerns raised by the Board in its August 11, 2016 Opinion and Order. The need to obtain this additional expert, and for the same to compile the necessary data to reply to the Agency, and file an Amended Petition, has taken a considerable amount of time, said amount of time being more than the Petitioner originally contemplated. Petitioner is actively working with its expert to gather and analyze the data necessary to support an Amended Petition.

8. Petitioner is actively engaged in gathering the data necessary to file an Amended Petition that adequately addresses both the Agency's and the Board's concerns, and thus Petitioner is acting diligently in moving this case forward. Further, this Motion is not brought in bad faith, and is not intended to unnecessarily delay this proceeding nor cause prejudice to any party. This Motion is also filed promptly upon receipt of the Board's August 11, 2016 Opinion and Order on August 16, 2016.

9. In light of the foregoing, Petitioner respectfully requests that this Board issue a stay of these proceedings for a reasonable period of time to allow Petitioner to prepare for, and file, its Amended Petition.

10. Further, in light of this reasonable request, Petitioner requests that this Board waive any decision deadline, as well as any hearing and filing deadline requirements, until after Petitioner files its Amended Petition. (See Exhibit B).

11. Finally, Petitioner will suffer material prejudice if this Motion to Stay is not granted. Petitioner will be prevented the opportunity from adequately addressing the Agency's, and this Board's, concerns as set forth in this Board's August 11, 2016 Opinion and Order. By not addressing those concerns, this Board will not have all of the data otherwise available to it in order to make an informed decision.

WHEREFORE, Petitioner, Blake Leasing Company, LLC – Real Estate Series as owner of Kirkland Quick Stop, respectfully requests that this Honorable Board grant Petitioner's Motion to Stay Proceedings, enter an Order staying these proceedings for a reasonable period of time to allow Petitioner to file its Amended Petition, plus enter such other and further relief in favor of Petitioner as this Board deems just and proper.

Dated: August 22, 2016

Respectfully submitted,

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

/s/ Charles F. Helsten

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One of Its Attorneys

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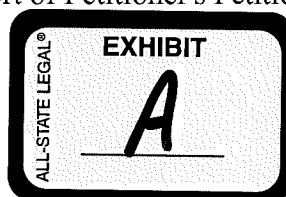
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PETITIONER'S STATUS REPORT

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

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

2. On June 15, 2016, the Illinois Environmental Protection Agency ("Agency") filed its Response to Petitioner's Petition. Within the Agency's Response, the Agency requested certain clarifications and additional documentation for the Board's review prior to a decision being made. Petitioner informed the Hearing Officer that it intended to file a Reply to the Agency's Response whereby Petitioner sought to address the Agency's concerns and provide additional documentation in support of its Petition. During all relevant times, Petitioner was actively engaged in preparing for that Reply through Petitioner's engagement of an expert who was compiling additional data in support of Petitioner's Petition.



3. On July 19, 2016, a status hearing was held before Hearing Officer Bradley P. Halloran. During said status hearing, Petitioner's Counsel, for the first time, was informed that this matter was scheduled for a July 21, 2016 decision by the Board. Petitioner was surprised to learn that this matter was scheduled for a decision as it had not yet filed its Reply to the Agency's Response, it was actively engaging with its expert and diligently moving this matter forward, and there had not yet been a public hearing regarding Petitioner's Petition as required by 35 Ill. Adm. Code 106.308.

4. On July 19, 2016, Petitioner filed its Emergency Motion to Extend Time to Respond and to Strike Decision Date per 35 Ill. Adm. Code 101.522. On July 20, 2016, the Agency responded to Petitioner's Emergency Motion with no objection to the same.

5. On August 11, 2016, by a vote of 4-0, the Board issued and adopted its Opinion and Order of the Board whereby the Board held that Petitioner's Petition did not adequately address the four elements of 35 Ill. Adm. Code 106.310 and thereby directed Petitioner to file an Amended Petition in order to address the Agency's concerns raised in its June 15, 2016 Response, as well as address the Board's concerns raised in its Opinion and Order. The Board also noted that Petitioner may seek a stay of this case so as to allow Petitioner time to compose its Amended Petition. Via this Motion, Petitioner seeks such a stay pursuant to 35 Ill. Adm. Code 101.514.

6. In the late afternoon hours of Friday, August 19, 2016, Petitioner received preliminary supplemental sampling results from its newly-retained expert. Petitioner is presently in the process of reviewing and analyzing that data, and conferring with its expert.

7. On August 22, 2016, Petitioner filed its Motion to Stay Proceedings.

WHEREFORE, Petitioner, Blake Leasing Company, LLC – Real Estate Series as owner of Kirkland Quick Stop, respectfully submits this Status Report in support of Petitioner's Motion to Stay Proceedings.

Dated: August 22, 2016

Respectfully submitted,

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

/s/ Charles F. Helsten

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One of Its Attorneys

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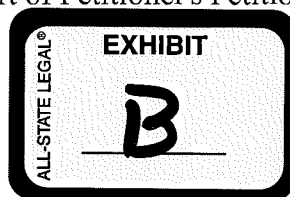
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PETITIONER'S WAIVER OF DECISION DEADLINE

NOW COMES Petitioner, Blake Leasing Company, LLC – Real Estate Series as owner of Kirkland Quick Stop, by and through its attorneys, Hinshaw & Culbertson, LLP, and for its Waiver of Decision Deadline, states as follows:

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

2. On June 15, 2016, the Illinois Environmental Protection Agency ("Agency") filed its Response to Petitioner's Petition. Within the Agency's Response, the Agency requested certain clarifications and additional documentation for the Board's review prior to a decision being made. Petitioner informed the Hearing Officer that it intended to file a Reply to the Agency's Response whereby Petitioner sought to address the Agency's concerns and provide additional documentation in support of its Petition. During all relevant times, Petitioner was actively engaged in preparing for that Reply through Petitioner's engagement of an expert who was compiling additional data in support of Petitioner's Petition.



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6. On August 22, 2016, Petitioner filed its Motion to Stay Proceedings. Via this Motion, Petitioner seeks such a stay pursuant to 35 Ill. Adm. Code 101.514.

7. In the event that this Board grants Petitioner's Motion to Stay Proceedings, Petitioner respectfully requests that this Board, pursuant to 35 Ill. Adm. Code 101.308, waive any decision deadlines that may be applicable, as well as any hearing and filing deadline requirements, until after Petitioner has filed its Amended Petition.

WHEREFORE, Petitioner, Blake Leasing Company, LLC – Real Estate Series as owner of Kirkland Quick Stop, respectfully requests that this Board, in the event this Board grants Petitioner's Motion to Stay Proceedings, waives any decision deadlines that may be applicable, as well as any hearing and filing deadline requirements, until after Petitioner has filed its Amended Petition, plus grant Petitioner such other and further relief that is just and proper.

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