

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>PCB 20-16</b>
	)	<b>(Enforcement – Land)</b>
	)	
<b>IRONHUSTLER EXCAVATING, INC., an</b>	)	
<b>Illinois corporation, RIVER CITY</b>	)	
<b>CONSTRUCTION, LLC, an Illinois limited</b>	)	
<b>liability company, and VENOVIKH</b>	)	
<b>CONSTRUCTION CO., an Illinois corporation,</b>	)	
	)	
<b>Respondents.</b>	)	

**UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE A RESPONSE TO THE MOTION TO STRIKE AFFIRMATIVE DEFENSE FILED BY IRONHUSTLER**

NOW COMES the Respondent, IRONHUSTLER EXCAVATING, INC., an Illinois corporation (“IronHustler”), by its attorney Jay H. Scholl of Davis & Campbell L.L.C., and requests a 30-day extension of time to file a response to the Motion to Strike Affirmative Defense filed by IronHustler filed by the Complainant, PEOPLE OF THE STATE OF ILLINOIS (“Complainant”). In support thereof, IronHustler states as follows:

**BACKGROUND**

1. On November 20, 2019, IronHustler filed an Answer to the Complaint containing an Affirmative Defense.
2. On or about November 27, 2019, Complainant filed a Motion to Strike Affirmative Defense Filed by IronHustler (the “Motion”) arguing seven grounds for striking the Affirmative Defense stated in IronHustler’s Answer to the Complaint.
3. The 14-day deadline to respond to the Motion, pursuant to Section 101.500(d) of the Board’s Procedural Rules. 35 Ill. Adm. Code 101.500, is December 11, 2019.

**ARGUMENT**

4. Section 101.500 of the Board's Procedural Rules. 35 Ill. Adm. Code 101.500, provides that "[p]arties may request that the Board grant more time to respond by filing a motion for extension of time before the response period expires."

5. Furthermore, Section 101.522 of the Board's Procedural Rules. 35 Ill. Adm. Code 101.522 provides that "[i]f a party's motion shows good cause, the Board or hearing officer may extend any deadline required by this Part."

6. The 14-day deadline to respond to the Motion has not yet expired, so this request for an extension is made before the response period expires.

7. The Motion was filed the day before Thanksgiving, after which the offices of the attorneys for IronHustler were closed for two days, leaving only eight working days to prepare a response to the Motion.

8. Eight days is insufficient time to respond to the seven grounds brought by Complainant seeking to dismiss the Affirmative Defense filed by IronHustler.

9. In the meantime, Complainant proceeded with discovery, serving IronHustler with a Request to Produce and Interrogatories on December 5, 2019.

10. Accordingly, the extension sought with respect to responding to the Motion will not adversely affect this proceeding.

11. Counsel for IronHustler has conferred with counsel for Claimant, and Claimant has no objection to the extension requested herein.

WHEREFORE, IronHustler respectfully requests that the Board enter an order granting: (i) leave until January 10, 2020 to respond to the Motion to Strike Affirmative Defenses Filed by IronHustler; and (ii) such further relief as deemed just and appropriate.

IRONHUSTLER EXCAVATING, INC.  
An Illinois corporation, Respondent

By:   
One of Its Attorneys

Jay H. Scholl, ARDC # 6297558  
DAVIS & CAMPBELL L.L.C.  
401 Main Street, Suite 1600  
Peoria, IL 61602  
Tel: (309) 673-1681  
Fax: (309) 673-1690  
[jhscholl@dcamlaw.com](mailto:jhscholl@dcamlaw.com)  
00245077.DOCX

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that I have served on December 10, 2019, the attached Unopposed Motion for Extension of Time to File a Response to the Motion to Strike Affirmative Defense Filed by IronHustler upon the following persons by email:

Raymond J. Callery  
Office of the Attorney General  
500 South Second Street  
Springfield, IL 62701  
[rallery@atg.state.il.us](mailto:rallery@atg.state.il.us)  
*Assistant Attorney General*

Carol Webb  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, IL 62794-9274  
[Carol.Webb@illinois.gov](mailto:Carol.Webb@illinois.gov)  
*Hearing Officer*

Kenneth Eathington  
Quinn, Johnston, Henderson  
Pretorius & Cerulo  
227 N.E. Jefferson Street  
Peoria, IL 61602  
[keathington@quinnjohnston.com](mailto:keathington@quinnjohnston.com)  
*Attorney for River City  
Construction, LLC*

Furthermore, I, the undersigned, certify that I have served on December 10, 2019, the attached Unopposed Motion for Extension of Time to File a Response to the Motion to Strike Affirmative Defense Filed by IronHustler upon the following persons by depositing the document in a U.S. Postal Service mailbox by the time of 5:00 P.M., with proper postage or delivery charges prepaid:

Venovich Construction Company  
c/o Joseph L. Venovich, Jr., Registered Agent  
207 South Sampton Street  
P.O. Box 410  
Tremont, IL 61568

A handwritten signature in blue ink is positioned above a horizontal line. The signature is stylized and appears to read "J. Scholl".

Jay H. Scholl, ARDC # 6297558  
DAVIS & CAMPBELL L.L.C.  
401 Main Street, Suite 1600  
Peoria, IL 61602  
Tel: (309) 673-1681  
Fax: (309) 673-1690  
[jhscholl@dcamlaw.com](mailto:jhscholl@dcamlaw.com)

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<b>CONSTRUCTION CO., an Illinois corporation,</b>	)	
	)	
<b>Respondents.</b>	)	

**NOTICE OF FILING**

To: See attached Certificate of Service.

PLEASE TAKE NOTICE that on December 10, 2019, I filed with the Office of the Clerk of the Pollution Control Board this Notice of Filing and an Unopposed Motion for Extension of Time to File a Response to the Motion to Strike Affirmative Defense Filed by IronHustler, copies of which are hereby served upon you.

IRONHUSTLER EXCAVATING, INC.  
An Illinois corporation, Respondent

By:   
One of Its Attorneys

Jay H. Scholl, ARDC # 6297558  
DAVIS & CAMPBELL L.L.C.  
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[jhscholl@dcamplaw.com](mailto:jhscholl@dcamplaw.com)  
00243133.DOCX

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Raymond J. Callery  
Office of the Attorney General  
500 South Second Street  
Springfield, IL 62701  
[rcallery@atg.state.il.us](mailto:rcallery@atg.state.il.us)  
*Assistant Attorney General*

Carol Webb  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, IL 62794-9274  
[Carol.Webb@illinois.gov](mailto:Carol.Webb@illinois.gov)  
*Hearing Officer*

Kenneth Eathington  
Quinn, Johnston, Henderson  
Pretorius & Cerulo  
227 N.E. Jefferson Street  
Peoria, IL 61602  
[keathington@quinnjohnston.com](mailto:keathington@quinnjohnston.com)  
*Attorney for River City  
Construction, LLC*

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Venovich Construction Company  
c/o Joseph L. Venovich, Jr., Registered Agent  
207 South Sampton Street  
P.O. Box 410  
Tremont, IL 61568



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