BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

PIA AVCENTER LLC d/b/a BYERLY AVIATION Petitioner, v. ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, Respondent.	)	PCB No. 24-78 (UST Appeal)

NOTICE OF FILING AND PROOF OF SERVICE

TO: Carol Webb, Hearing Officer
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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 (h), PETITIONER'S POST HEARING REPLY BRIEF, a copy of which is herewith served upon Respondent.

The undersigned hereby certifies that I have served this document by e-mail upon the above persons at the specified e-mail address before 5:00 p.m. on the 17th day of November, 2026. The number of pages in the e-mail transmission is 4.

PIA AVCENTER LLC d/b/a BYERLY AVIATION, Petitioner

BY: HEPLERBROOM, LLC

BY: */s/ Patrick D. Shaw*

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v.	)	PCB No. 24-78 (UST Appeal)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, Respondent.	)	

PETITIONER'S POST-HEARING REPLY BRIEF

NOW COMES Petitioner, PIA AVCENTER LLC d/b/a BYERLY AVIATION, by its undersigned counsel, for its post-hearing reply brief states as follows:

ARGUMENT

The Illinois EPA maintains the Board's regulations prohibit payment for "a previously planned UST removal" (Resp. at p. 11), despite numerous Board decisions that held that any "planned nature of the tank removal is not material." Chuck and Dan's Auto Service v. IEPA, PCB 92-203, slip op. at p. 12 (Aug 26, 1993) The Illinois EPA does not address these precedents in any way, either to explain why they do not apply nor alternatively why they should be overruled.

Nor did the Illinois EPA directly address the hypothetical scenario posed by the Board in which a UST owner changed their mind about removing a tank. (Opinion of June 18, 2026, at p. 9) It may be assumed that under the Illinois EPA's theory, payment would be denied if the owner changes their mind, as it claims its position would not differ for any "previously planned UST removal,"

whether permitted in 2015 or on the day before IEMA notification. (Resp. at p. 11) That would be an absurd result, particularly given the common fact pattern under which planned tank pull complaints were traditionally made: a tank removal permit is obtained, and the tank removal crew and the OSFM representative discover a release during the tank pull. The permit at issue was always the one under which the tanks were actually removed and the release was discovered.

The Board also asked for more information about the nature of the violation notices and "as to whether the violations were related to suspected releases from the tanks." (Opinion of June 18, 2026, at pp 7-8) Petitioner's consultant testified without contradiction that there was no relationship between those violations and the subsequently reported overfills. (Petitioner's Brief, at pp. 22-24)

Finally, the Illinois EPA has added a new argument, claiming for the first time that a release was not confirmed. (Resp. Brief, at pp. 12- 13) Confirmation of the release was submitted to the Illinois EPA in the 45-Day Report (A.R.106-107), which was approved on December 18, 2023, along with permission to proceed with State 1 Site Investigation. (A.R.351) If the Agency wished to challenge confirmation of the release, it was obligated to do so at the time it approved the 45-Day Report, not at the payment stage. Environmental Protection Agency v. Pollution Control Bd., 86 Ill. 2d 390, 405 (1981) ("The Agency had a duty . . . to specify reasons for the denial . . . or be precluded from raising that issue.")

WHEREFORE, Petitioner, PIA AVCENTER LLC d/b/a BYERLY AVIATION, prays that the Board find the Illinois EPA erred in its decision, direct the Illinois EPA to pay $37,576.31, direct Petitioner to present a statement of legal fees for the Board's consideration, and grant such other and further relief as it deems meet and just.

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