

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME RAOUL, Attorney	)	
General of the State of Illinois,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 22-42
	)	(Enforcement - Air)
AZ SPE, LLC, an Illinois limited,	)	
liability company,	)	
	)	
Respondent.	)	

**NOTICE OF FILING**

TO: Don Brown	Brad Halloran
Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
James R. Thompson Center	1021 North Grand Avenue East
100 West Randolph, Suite 11-500	Post Office Box 19274
Chicago, Illinois 60601	Springfield, Illinois 62794-9276
<b>(VIA ELECTRONIC MAIL)</b>	<b>(VIA ELECTRONIC MAIL)</b>

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board an **MOTION FOR EXTENSION OF TIME TO FILE ANSWER AND MOTION FOR LEAVE TO FILE ANSWER, INSTANTER**, copies of which are herewith served upon you.

Respectfully submitted,

AZ SPE, LLC,  
Respondent

DATE: May 27, 2022

By: /s/ Jennifer M. Martin  
One of Its Attorneys

Jennifer M. Martin  
HEPLERBROOM, LLC  
4340 Acer Grove Drive  
Springfield, IL 62711  
[Jennifer.Martin@heplerbroom.com](mailto:Jennifer.Martin@heplerbroom.com)  
(217) 528-3674

**CERTIFICATE OF SERVICE**

I, the undersigned, on oath state the following:

That I have served the attached **MOTION FOR EXTENSION OF TIME TO FILE ANSWER AND MOTION FOR LEAVE TO FILE ANSWER, *INSTANTER*** via electronic mail upon:

Don Brown  
Clerk of the Board  
Illinois Pollution Control Board  
100 W. Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
[Don.Brown@illinois.gov](mailto:Don.Brown@illinois.gov)

Brad Halloran  
Hearing Officer  
Illinois Pollution Control Board  
100 W. Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
[Brad.Halloran@illinois.gov](mailto:Brad.Halloran@illinois.gov)

Kevin J. Garstka  
Assistant Attorney General  
69 West Washington Street, Suite 1800  
Chicago, Illinois 60602  
[Kevin.Garstka@ilag.gov](mailto:Kevin.Garstka@ilag.gov)

That my email address is [Jennifer.Martin@heplerbroom.com](mailto:Jennifer.Martin@heplerbroom.com)

That the number of pages in the email transmission is 11 pages.

That the email transmission took place before 5:00 p.m. on the date of May 27, 2022.

/s/ Jennifer M. Martin

Jennifer M. Martin

Date: May 27, 2022

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	)	
Respondent.	)	

**MOTION FOR EXTENSION OF TIME TO FILE ANSWER AND MOTION FOR  
LEAVE TO FILE ANSWER, INSTANTER**

NOW COMES Respondent, AZ SPE, LLC, (hereinafter “AZ SPE” or “Respondent”), by and through its attorneys, HEPLERBROOM, LLC, and pursuant to 35 Ill. Adm. Code §101.522, states as follows in support of its Motion for Extension of Time to File Answer and Motion for Leave to File Answer, *Instanter*:

1. On February 14, 2022, Complainant filed its Complaint with the Illinois Pollution Control Board (“Board”).
2. Respondent was served with the Complaint on February 22, 2022, and immediately began its investigation of the allegations of the Complaint. Respondent also entered into good faith settlement discussions with the Complainant.
3. Respondent’s Answer to the Complaint was due on April 25, 2022.
4. On or about May 11, 2022, Respondent’s investigation located documents and information demonstrating that Respondent was not the owner or operator of the subject fuel dispensing system during the relevant time period.

5. By this Motion, Respondent seeks an extension of the Answer deadline to allow it to file the attached Answer *instanter*.

6. The Board's failure to grant this Motion would substantially prejudice the Complainant, who was not aware of the existence of the above-described documents until May 11, 2022.

7. The Board's grant of this Motion will not result in prejudice to the Complainant or the Board.

WHEREFORE, for the above reasons, Respondent respectfully requests that the Board grant this Motion for Extension of Time to File Answer and Motion for Leave to File Answer, *Instanter*, and accept the attached Answer for filing with the Board.

Respectfully submitted,

AZ SPE, LLC, Respondent

DATE: May 27, 2022

By: /s/ Jennifer M. Martin  
Jennifer M. Martin

Jennifer M. Martin  
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	)	
Respondent.	)	

**ANSWER TO COMPLAINT**

NOW COMES Respondent, AZ SPE, LLC, (hereinafter “AZ SPE” or “Respondent”), by and through its attorneys, HEPLERBROOM, LLC, and for its Answer to the Complaint, states as follows:

**COUNT I**

**FAILURE TO TIMELY DECOMMISSION VAPOR COLLECTION AND CONTROL SYSTEM AND SUBMIT REPORTS**

1. This Complaint is brought on behalf of the People of the State of Illinois, Kwame Raoul, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), against AZ SPE, LLC (“Respondent” or “AZ SPE”), pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2020).

**ANSWER: Respondent admits the allegations in paragraph 1.**

2. The Illinois EPA is an administrative agency of the State of Illinois created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2020), and is charged, *inter alia*, with duty of enforcing the Act.

**ANSWER: Respondent admits the allegations in paragraph 2.**

3. At all times relevant to this Complaint, AZ SPE has been and is an Illinois limited liability company, in good standing with the Illinois Secretary of State.

**ANSWER: Respondent admits the allegations in paragraph 3.**

4. At all times relevant to this Complaint, AZ SPE owned and operated, and continues to own and operate a gasoline dispensing facility located at 609 South Main Street, Algonquin, McHenry County, Illinois 60102 ("Facility").

**ANSWER: Respondent denies the allegations in paragraph 4.**

5. AZ SPE owns and operates gasoline dispensing pumps at the Facility that emit volatile organic compounds ("VOCs") into the environment.

**ANSWER: Paragraph 5 contains legal conclusions that require no response from Respondent. Respondent denies any remaining allegations in paragraph 5.**

6. Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), provides as follows:

No person shall:

- (a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

**ANSWER: The statutory sections cited in paragraph 6 speak for themselves and require no response from Respondent. Respondent denies any remaining allegations in paragraph 6.**

7. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), provides the following definition:

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

**ANSWER:** The statutory sections cited in paragraph 7 speak for themselves and require no response from Respondent. Respondent denies any remaining allegations in paragraph 7.

8. AZ SPE, a limited liability company, is a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).

**ANSWER:** Paragraph 8 contains legal conclusions that require no response from Respondent. Respondent denies any remaining allegations in paragraph 8.

9. Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source

**ANSWER:** The statutory sections cited in paragraph 9 speak for themselves and require no response from Respondent. Respondent denies any remaining allegations in paragraph 9.

10. VOCs are “contaminants” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).

**ANSWER:** Paragraph 10 contains legal conclusions that require no response from Respondent. Respondent denies any remaining allegations in paragraph 10.

11. Section 218.586(i)(1)(B) of the Illinois Pollution Control Board (“Board”) Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), provides as follows:

No later than December 31, 2016, an owner or operator of a gasoline dispensing operation shall complete the decommissioning of all vapor collection and control systems in accordance with all of the provisions specified in subsection (i)(2).

**ANSWER:** The statutory sections cited in paragraph 11 speak for themselves and require no response from Respondent. Respondent denies any remaining allegations in paragraph 11.

12. Section 218.586(a)(7) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(a)(7), provides the following definition:

“Gasoline dispensing operation” means any operation where motor vehicle fuel is dispensed into motor vehicle fuel tanks or portable containers from a storage tank with a capacity of 2176 liters (575 gallons) or more.

**ANSWER:** The statutory sections cited in paragraph 12 speak for themselves and require no response from Respondent. Respondent denies any remaining allegations in paragraph 12.

13. AZ SPE is a “gasoline dispensing operation” as that term is defined in Section 218.586(a)(7) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(a)(7).

**ANSWER:** Paragraph 13 contains legal conclusions that require no response from Respondent. Respondent denies any remaining allegations in paragraph 13.

14. Section 218.586(a)(11) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(a)(11), provides the following definition:

“Owner” or “operator” means any person who owns, leases, operates, manages, supervises or controls (directly or indirectly) a gasoline dispensing operation.

**ANSWER:** The statutory sections cited in paragraph 14 speak for themselves and require no response from Respondent. Respondent denies any remaining allegations in paragraph 14.

15. AZ SPE is an “owner” or “operator,” as that term is defined in Section 218.586(a)(11) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(a)(11).

**ANSWER:** Paragraph 15 contains legal conclusions that require no response from Respondent. Respondent denies any remaining allegations in paragraph 15.

16. Section 218.586(i)(2)(A) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.586(i)(2)(A), provides as follows:

The owner or operator of a gasoline dispensing operation shall complete and submit a notice of intent form, provided by the Agency, notifying the Agency of its intent to decommission. The completed notice of intent form shall be submitted to the Agency at least 10 days prior to commencing decommissioning in accordance with subsection (i)(2)(B).

**ANSWER:** The statutory sections cited in paragraph 16 speak for themselves and require no response from Respondent. Respondent denies any remaining allegations in paragraph 16.

17. Section 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm.

Code 254.218(i)(2)(C), provides as follows:

The owner or operator of a gasoline dispensing operation and the contractors that performed the decommissioning shall complete and sign a decommissioning checklist and certification, provided by the Agency, documenting the decommissioning procedures performed. Within 30 days after completion of the decommissioning procedures specified by subsection (i)(2)(B), the owner or operator shall provide the completed checklist and certification and the test results to the Agency.

**ANSWER: The statutory sections cited in paragraph 17 speak for themselves and require no response from Respondent. Respondent denies any remaining allegations in paragraph 17.**

18. By December 31, 2016, AZ SPE was required to decommission its vapor collection and control system in accordance with Section 218.586(i)(1)(B) of the Board Air Pollution Regulation, 35 Ill. Adm. Code 218.586(i)(1)(B), and therefore was required to submit a notice of intent to decommission at least 10 days prior to commencing decommissioning pursuant to Section 218.586(i)(2)(A) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(A), and also submit a decommissioning checklist, certification, and test results within 30 days after completion of decommissioning procedures, pursuant to Section 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(C).

**ANSWER: Paragraph 18 contains legal conclusions that require no response from Respondent. Respondent denies any remaining allegations in paragraph 18, and affirmatively states that it was not the owner of the gasoline dispensing system that was subject to the vapor decommissioning requirements.**

19. As of the date of the filing of this Complaint, AZ SPE has not submitted a notice of intent to Illinois EPA to decommission its vapor collection and control system.

**ANSWER: Paragraph 19 contains legal conclusions that require no response from Respondent. Respondent denies any remaining allegations in paragraph 19, and affirmatively states that it was not the owner of the gasoline dispensing system that was subject to the vapor decommissioning requirements.**

20. As of the date of the filing of this Complaint, AZ SPE has not submitted a decommissioning checklist, certification, or test results to Illinois EPA.

**ANSWER: Paragraph 20 contains legal conclusions that require no response from Respondent. Respondent denies any remaining allegations in paragraph 20, and affirmatively states that it was not the owner of the gasoline dispensing system that was subject to the vapor decommissioning requirements.**

21. By failing to submit a notice of intent to decommission and failing to timely submit a decommissioning checklist, certification, and test results to Illinois EPA, AZ SPE violated Sections 218.586(i)(2)(A) and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(2)(A) and 218.586(i)(2)(C).

**ANSWER: Paragraph 21 contains legal conclusions that require no response from Respondent. Respondent denies any remaining allegations in paragraph 21.**

22. On information and belief, AZ SPE failed to timely decommission its vapor collection and control system, and thereby violating Section 218.586(i)(1)(B) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B).

**ANSWER: Paragraph 22 contains legal conclusions that require no response from Respondent. Respondent denies any remaining allegations in paragraph 22.**

23. By violating Sections 218.586(i)(1)(B), 218.586(i)(2)(A), and 218.586(i)(2)(C) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.586(i)(1)(B), 218.586(i)(2)(A), and 218.586(i)(2)(C), AZ SPE caused or threatened or allowed the discharge or emission of VOCs into the environment, so as to violate regulations adopted by the Board and has thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020).

**ANSWER: Paragraph 23 contains legal conclusions that require no response from Respondent. Respondent denies any remaining allegations in paragraph 23.**

WHEREFORE, Respondent, AZ SPE, LLC, asserts that Complainant is not entitled to relief sought by Count I of its Complaint, and prays that the Complainant take nothing by Count

I of the Complaint, that the Board enter judgment in favor of AZ SPE, LLC, as to Count I of the Complaint, and that the Board award AZ SPE, LLC its costs and all other relief the Board finds just and proper.

**AFFIRMATIVE DEFENSES**

Respondent AZ SPE, LLC hereby gives notice that it intends to rely upon any affirmative defenses that are or become available or apparent during the course of investigation and/or discovery, and hereby reserves the right to amend its Answer to assert any such defenses.

WHEREFORE, Respondent AZ SPE, LLC prays that Complainant take nothing by the Complaint for Injunctive and Other Relief, that the Illinois Pollution Control Board enter judgment in favor of AZ SPE, LLC, and that the Illinois Pollution Control Board award AZ SPE, LLC all other appropriate relief.

Respectfully submitted,

AZ SPE, LLC, Respondent

DATE: May 24, 2022

By: /s/ Jennifer M. Martin  
Jennifer M. Martin

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