

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

AERO PLATING WORKS,	)	
Petitioner,	)	
	)	
v.	)	PCB 24-
	)	(RCRA Permit Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION	)	Extension)
AGENCY,	)	
Respondent.	)	

**NOTICE**

Don Brown, Clerk  
Illinois Pollution Control Board  
60 East Van Buren St., Suite 630  
Chicago, IL 60605  
[don.brown@illinois.gov](mailto:don.brown@illinois.gov)

1850 N. Elston, LLC  
c/o: ArentFox Schiff, LLP  
Attn: Gabriel M. Rodriguez  
233 South Wacker Drive  
Suite 7100  
Chicago, IL 60606  
[gabriel.rodriguez@afslaw.com](mailto:gabriel.rodriguez@afslaw.com)

PLEASE TAKE NOTICE that I have today caused to be filed an AMENDED **REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD** with the Illinois Pollution Control Board, copies of which are served upon you.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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Melanie A. Jarvis  
Deputy Chief Counsel – Land Enforcement  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
[melanie.jarvis@illinois.gov](mailto:melanie.jarvis@illinois.gov)

Dated: January 30, 2024

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

AERO PLATING WORKS,	)	
Petitioner,	)	
	)	
v.	)	PCB 24-
	)	(RCRA Permit Appeal – Ninety Day
ILLINOIS ENVIRONMENTAL PROTECTION	)	Extension)
AGENCY,	)	
Respondent.	)	

**AMENDED REQUEST FOR NINETY DAY EXTENSION  
OF APPEAL PERIOD**

NOW COMES the Respondent, the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, Melanie A. Jarvis, Assistant Counsel, and, pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)(1)) and 35 Ill. Adm. Code 105.208, hereby requests that the Illinois Pollution Control Board (“Board”) grant an extension of the thirty-five (35) day period for petitioning for a hearing to May 16, 2024, or any other date not more than a total of one hundred twenty-five (125) days from the date of receipt of the Illinois EPA’s final decision. In support thereof, the Illinois EPA respectfully states as follows:

1. On or about January 10, 2024, the Illinois EPA issued a final decision to the Petitioner.
2. On January 30, 2024, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five-day period for filing a petition by ninety days. Upon information and belief, Petitioner received the final decision on or about January 12, 2024.

3. The additional time requested by the parties may eliminate the need for a hearing in this matter or, in the alternative, allow the parties to identify issues and limit the scope of any hearing that may be necessary to resolve this matter.

WHEREFORE, for the reasons stated above, the parties request that the Board, in the interest of administrative and judicial economy, grant this request for a ninety-day extension of the thirty-five-day period for petitioning for a hearing.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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Melanie A Jarvis  
Deputy Chief Counsel – Land Enforcement  
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217/782-5544  
866/273-5488 (TDD)  
[melanie.jarvis@illinois.gov](mailto:melanie.jarvis@illinois.gov)  
Dated: January 30, 2024

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

**CERTIFICATE OF SERVICE**

I, the undersigned attorney at law, hereby certify that on January 30, 2024, I served true and correct copies of an **AMENDED REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD** by the method(s) and to the persons identified below:

*Electronic Service*

Don Brown, Clerk  
Illinois Pollution Control Board  
60 East Van Buren St., Suite 630  
Chicago, IL 60605  
[don.brown@illinois.gov](mailto:don.brown@illinois.gov)

1850 N. Elston, LLC  
c/o: ArentFox Schiff, LLP  
Attn: Gabriel M. Rodriguez  
233 South Wacker Drive  
Suite 7100  
Chicago, IL 60606  
[gabriel.rodriguez@afslaw.com](mailto:gabriel.rodriguez@afslaw.com)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



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Melanie A. Jarvis  
Deputy Chief Counsel – Land Enforcement  
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**ArentFox Schiff LLP**

233 South Wacker Drive  
Suite 7100  
Chicago, IL 60606

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312.258.5500   **MAIN**  
312.258.5600   **FAX**

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[afslaw.com](http://afslaw.com)

**Gabriel M. Rodriguez**

Partner

312.258.5516   **DIRECT**

[gabriel.rodriguez@afslaw.com](mailto:gabriel.rodriguez@afslaw.com)

January 30, 2024

VIA E-MAIL

Melanie A. Jarvis  
Deputy Chief Counsel – Bureau of Land  
Illinois EPA  
P.O. Box 19276  
Springfield, IL 62794-9276

Re:   0316230001 – Cook County  
      Former Aero Plating Works Facility  
      ILD005125836  
      Log No. C-677-M-5

Dear Ms. Jarvis:

I represent 1850 N. Elston, LLC, the owner of the property at 1860 N. Elston Avenue, Chicago. My client received the attached letter via email from the Illinois EPA on January 10, 2024. The IEPA letter denied a closure plan modification request submitted by 1850 N. Elston, LLC in May 2023. The letter states that it is final agency action.

This is 1850 N. Elston, LLC's request for a 90-day extension to the appeal deadline.

Please feel free to contact me at 312-543-3326 if you need any further information from me.

Sincerely,

A handwritten signature in black ink that reads "Gabriel M. Rodriguez".

Gabriel M. Rodriguez



**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

217-524-3301

JAN 10 2024

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

7022 1670 0001 4381 6330

1850 N. Elston, LLC  
Dean Marks  
330 North Green Street  
Chicago IL 60607

Re: 0316230001--Cook County  
Aero Plating Works  
ILD005125836  
Log No. C-677-M-5  
Received: May 15, 2023  
RCRA Closure

Dear Mr. Marks,

This letter is in response to the closure plan modification request dated May 2023, and received by the Illinois EPA on May 15, 2023, submitted by Keith Oswald of V3 Companies (V3) on behalf of 1850 N. Elston, LLC. The subject submittal addressed closure of the following three hazardous waste management units (HWMUs) at the facility: Basement Storage Area, Hazardous Waste Storage Area and Wastewater Pre-Treatment Equipment Area. The waste managed at the three units included: chromium plating solutions (D007), nickel plating sludges (F006), residuals from plating line tanks (F008), and spent stripping solution (F009). Aero Plating Works (facility) is located at 1860 N. Elston Avenue, Chicago, 60642. A map of the facility is included as an attachment to this letter.

Aero Plating Works performed plating operations at the subject property from the mid-1940s to the mid-1980s. Operations included job-shop nickel and chromium electroplating and the facility was classified as a hazardous waste generator.

The initial closure for the RCRA interim status hazardous waste storage areas were approved in 1988 at the site under Log No C-363. However, in 1987, the U.S. EPA cited Aero Plating Works facility in alleged violation and issued an administrative complaint and compliance order against the facility in violation of RCRA, which resulted in a penalty fine to the U.S. EPA.

The three afore-mentioned HWMUs were still required to go through RCRA interim status closure by the Illinois EPA, and the new closure plan to close the three units was approved on May 23, 1994 under a new closure plan (Log No. C-677-M-1). The facility last submitted a closure plan modification to the Illinois EPA on July 11, 1997 (Log No. C-677-M-4), which was approved by the Illinois EPA on August 19, 1997. However, no further closure activities were conducted, and no submittals associated with the closure of the three HWMUs were made to the

2125 S. First Street, Champaign, IL 61820 (217) 278-5800  
1101 Eastport Plaza Dr., Suite 100, Collinsville, IL 62234 (618) 346-5120  
9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000  
595 S. State Street, Elgin, IL 60123 (847) 608-3131

2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200  
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022  
4302 N. Main Street, Rockford, IL 61103 (815) 987-7760

Illinois EPA. The Illinois EPA then issued a follow up letter to the facility requiring completing the RCRA closure of the three HWMUs on September 19, 2004 (Log No. C-677), but the facility did not respond to the letter, until the Illinois EPA was contacted by the facility representative via email in 2022. Eventually, the subject modified closure plan was received by the Illinois EPA on May 15, 2023.

The Illinois EPA has reviewed the subject submittal, and the subject plan cannot be approved at this time due to the following deficiencies:

1. The facility must properly complete the LPC-PA 18 form in its entirety. The "Units Undergoing Closure" in the second page of the accompanied form was left blank and not completed.
2. A new Part A application must be submitted to the Illinois EPA, since there has been a change of ownership for this facility. The new part A application must be sent to the Illinois EPA within forty five (45) days of the date of this letter.
3. 1850 N. Elston, LLC must submit an updated cost estimate for the facility to reflect the work required in this letter. The updated cost estimate must be submitted to the Illinois EPA with the revised closure plan.
4. The subject closure plan did not include historical information, document all closure activities and include documentation of all sampling/analysis efforts. At minimum, the revised closure plan must include:
  - a. A discussion of the goals and objectives of the soil sampling/analysis efforts;
  - b. A detailed discussion of the field activities conducted and sampling methodologies;
  - c. A summary in tabular form of all analytical data, including all quality assurance/quality control data;
  - d. A comparison of analytical data to the applicable remediation objectives set forth in 35 Illinois Administrative Code (IAC) Part 742. Discuss any exceedances;
  - e. A scaled drawing showing the horizontal location from which all soil samples were collected;
  - f. Identification of the depth and vertical interval from which each sample was collected;
  - g. A revised soil sampling and analysis plan meeting Condition 5. below which includes a description of the soil sampling procedures, sample preservation procedures and chain of custody procedures;

- h. A detailed discussion of the test method used, and detection limits achieved, including sample preparation, sample dilution (if necessary) and analytical interferences;
    - i. Copies of the final laboratory report sheets, including final sheets reporting all quality assurance/quality control data;
    - j. Visual classification of each soil sample in accordance with ASTM D-2488;
    - k. A summary of all procedures used for quality assurance/quality control, including the results of these procedures;
    - l. A discussion of the data, as it relates to the overall goal of the sampling/analysis effort; and
    - m. Color photographs documenting the sampling efforts if available.
5. The proposed sampling and analysis plan and the sampling already conducted is inadequate to characterize the extent and concentrations of existing contamination at the HWMUs at the facility. A revised sampling and analysis plan must be submitted to the Illinois EPA for review and approval. The following must be included in the revised sampling and analysis plan:
  - a. Discuss the goals and objectives of effort.
  - b. Any data to be used to determine the clean closure of the units must be collected within five (5) years of completion of RCRA Closure activities (unless specifically approved by the Illinois EPA).
  - c. Parameters to be analyzed, including degradation products. At minimum, all collected soil samples must be analyzed for the following contaminants using Illinois EPA approved procedures:
    - i. Volatile Organic Compounds (VOCs). VOCs cannot be excluded from sampling since vapor intrusion exposure pathways have been incorporated into 35 IAC Part 742 since the last response from the facility was received. There also is a Class I benzene exceedance at IA-GP-107 for the soil component of groundwater ingestion exposure route during the sampling done in 2018.
    - ii. The total and toxicity characteristic leaching procedure (TCLP) concentrations from the following inorganics: arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver.
  - d. Any potential for migration of contaminants (vertically as well as horizontally) must be evaluated. The depth proposed in the subject submittal is not acceptable



since the 2018 sampling data shows extensive contamination at 6 ft and the facility hasn't delineated this contamination.

- e. Sampling locations on a scaled map. The sampling and analysis plan must expand to include areas beyond the perimeters of the three HWMUs in effort to delineate the extent of contamination.
  - f. Soil sampling increments should be 6 inches for the upper two feet of soil and 12 inches below a depth of two feet. Sampling must continue to at least the depth at which the Illinois EPA established cleanup objective is met.
  - g. Soil sampling, handling, analytical and QA/QC procedures.
6. In order to demonstrate the groundwater is a Class II groundwater, adequate information must be provided for Illinois EPA review and approval. Such a demonstration must be based on the site-specific information about the geology collected at the site, and demonstrate that none of the conditions described in 35 IAC 620.210(a)(1), (a)(2), (a)(3), or (a)(4) is met for the aquifer in question, or any overlying aquifer which is hydraulically connected.
7. Provide scaled drawings, which clearly identifies the property boundary lines, surrounding industrial/commercial and residential properties. The following must be met:
- a. This drawing must be in color, appropriately scaled, and a minimum of 3' x 2' in size;
  - b. This drawing must include all investigation efforts (the soil, sediment, and groundwater sampling locations) that have been conducted at the Facility;
  - c. Indicate the locations of all borings and groundwater monitoring wells and appropriately label them;
  - d. Appropriately label and highlight all contaminant exceedances. Exceedances of all contaminants must be summarized in tabular form; and
  - e. Submit at minimum three copies of this drawing (full-sized). In addition to print form, provide a PDF in electronic form.
8. If any VOCs are encountered through the investigations, an appropriate action must be taken to address the indoor air inhalation exposure route and ensure that remediation objectives developed in accordance with 35 IAC Part 742 are achieved for this exposure route. The extent of the groundwater contamination must be fully characterized before undertaking this exposure route evaluation.
9. No exposure route shall be excluded from consideration relative to a contaminant of concern unless the requirements of 35 IAC 742.305 have been met.

10. If Illinois EPA determines that implementation of the approved closure plan fails to satisfy the requirements of 35 IAC 725.211, the Illinois EPA reserves the right to amend the closure plan. Revisions of closure plans are subject to the appeal provisions of Section 40 of the Illinois Environmental Protection Act.
11. A revised closure plan required in Condition 5 above, which addresses the deficiencies included in this letter must be submitted to the Illinois EPA within forty-five (45) days of the date of this letter. The revised closure plan must include all applicable information in accordance with the content of closure plan section of the guidance plan. Guidance regarding the implementation of the investigative efforts approved by this letter and for remediation projects in general can be found in the document entitled "Guidance for Preparing RCRA Closure Plans, July 2003" (Guidance Document) available on the Illinois EPA's website.

The applicant may appeal this final decision to the Illinois Pollution Control Board pursuant to Section 40 of the Act by filing a petition for a hearing within thirty-five (35) days after the date of issuance of the final decision. However, the 35-day period may be extended for a period of time not to exceed ninety (90) days by written notice from the applicant and the Illinois EPA within the initial 35-day appeal period. If the owner or operator wishes to receive a 90-day extension, a written request that includes a statement of the date the final decision was received, along with a copy of this decision, must be sent to the Illinois EPA as soon as possible.

All submittals regarding RCRA closure activities should be sent to the following address:

Illinois Environmental Protection Agency  
Division of Land Pollution Control -- #33  
Permit Section  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276

For information regarding the request for an extension, please contact:

Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, IL 62794-9276  
217/782-5544

For information regarding the filing of an appeal, please contact:

Illinois Pollution Control Board, Clerk  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, IL 60601  
312/814-3620

Work required by this letter, the submittal(s), or the regulations may also be subject to other laws governing professional services, such as the Illinois Professional Land Surveyor Act of 1989, the Professional Engineering Practice Act of 1989, the Professional Geologist Licensing Act, and the Structural Engineering Licensing Act of 1989. This letter does not relieve anyone from compliance with these laws and the regulations adopted pursuant to these laws. All work that falls within the scope and definitions of these laws must be performed in compliance with them. The Illinois EPA may refer any discovered violation of these laws to the appropriate regulating authority.

Should you have any questions concerning this matter, please contact Visal Poornaka at (217) 558-4717.

Sincerely,



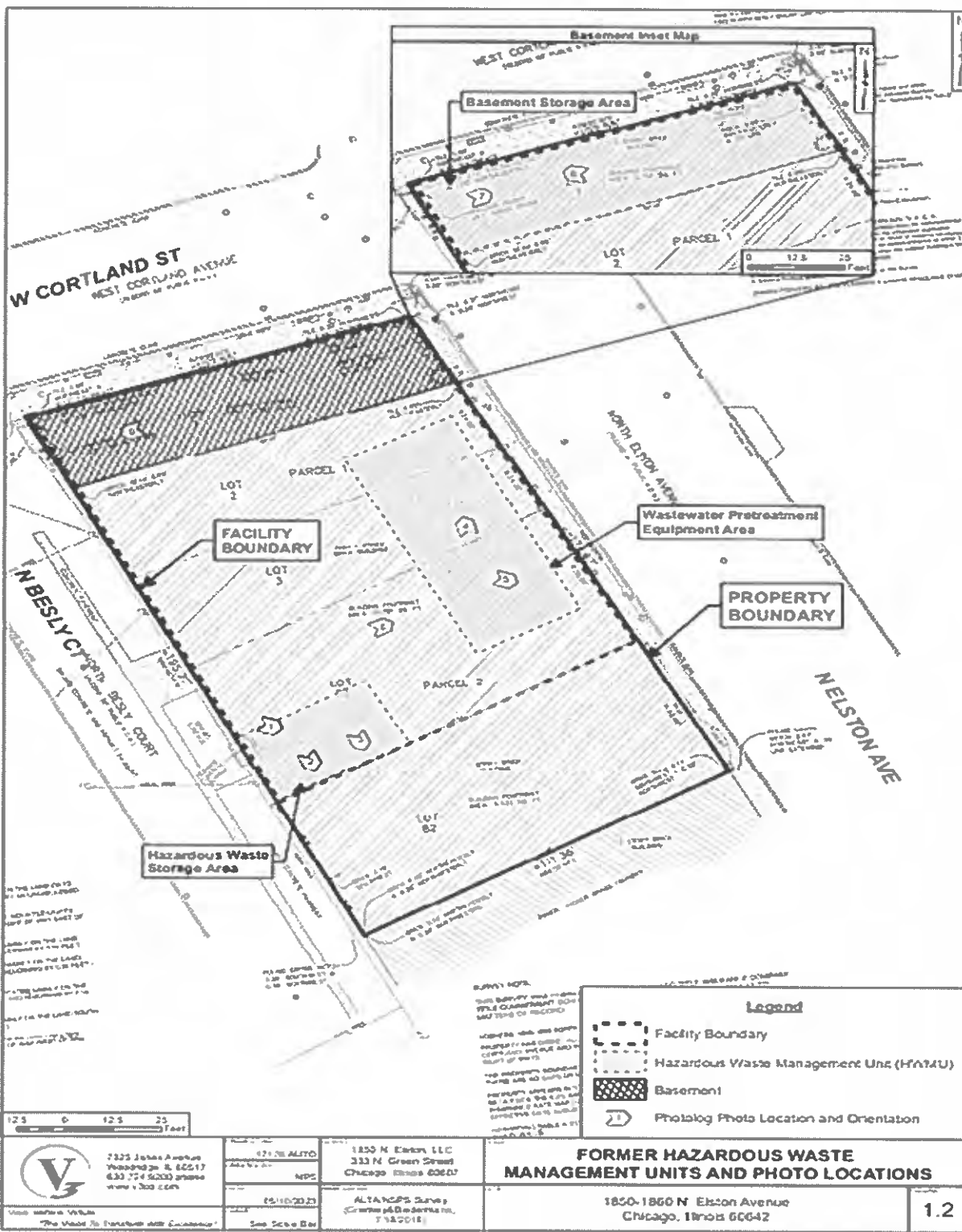
Jacqueline M. Cooperider, P.E.  
Permit Section Manager  
Bureau of Land

JMC:VP:0316230001-RCRA-C677M5-Denial.docx

VP TNH

Attachment: Aero Plating Works facility map

cc: Keith Oswald (electronic copy only)



Attachment: Aero Plating Works facility map

