

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS)
 by LISA MADIGAN, Attorney General)
 of the State of Illinois,)
)
 Complainant,)
)
 v.)
)
 MICK MORFEY, individually, and)
 WILLIAM KNAUER, individually,)
)
 Respondents.)

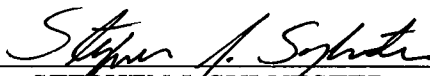
PCB No. 07-144
 (Enforcement - Air)

NOTICE OF ELECTRONIC FILING

TO: SEE ATTACHED SERVICE LIST

Please take notice that on the 15th day of November, 2007, I have caused filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complainant's Motion Requesting Additional Time to Respond to Discovery Requests of Respondent Mick Morfey a true and correct copy of which is attached and hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS,
 by LISA MADIGAN, Attorney General
 of the State of Illinois

By: 

 STEPHEN J. SYLVESTER
 Assistant Attorney General
 Environmental Bureau
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Date: November 15, 2007

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS)
by LISA MADIGAN Attorney General)
of the State of Illinois)
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Complainant,) PCB No. 07-144
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v.) (Enforcement- Air)
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MICK MORFEY, individually and)
WILLIAM KNAUER, individually)
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Respondents.)

**MOTION REQUESTING ADDITIONAL TIME TO RESPOND
TO DISCOVERY REQUESTS OF RESPONDENT MICK MORFEY**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois ("People"), pursuant to Section 101.522 of the Illinois Pollution Control Board ("Board") Procedural Regulations, 35 Ill. Adm. Code 101.522, and hereby requests additional time to respond to the discovery requests of Respondent Mick Morfey ("Morfey") in this case. In support of this Motion, Complainant states as follows:

1. On September 6, 2007, the Hearing Officer entered an Order requiring the appearing parties, the People and Morfey, to submit a proposed discovery schedule by September 14, 2007.
2. On September 17, 2007, the Hearing Officer entered an Order stating that on September 14, 2007, the People and Morfey submitted a proposed discovery schedule, which was accepted as follows: written discovery served by October 21, 2007, responses to written discovery served by November 20, 2007, depositions completed by February 11, 2008, expert witness disclosures from complainant by March 12, 2008, and from respondent by April 11, 2008, and all dispositive motions filed by May 12, 2008.

3. On or before October 21, 2007, the People and Morfey served their written discovery requests pursuant to the September 17, 2007 Hearing Officer Order.

4. The Illinois Attorney General's Office has requested that the Illinois Environmental Protection Agency ("Illinois EPA") provide the relevant documents requested by Morfey, responses to Morfey's interrogatories from appropriate Illinois EPA personnel, and certifications from appropriate Illinois EPA personnel as to the responses to Morfey's discovery requests.

5. The full and complete cooperation of Illinois EPA personnel is necessary to the People's response for several reasons. First, the Illinois EPA is the repository for virtually all of the documents requested by Morfey in discovery. Second, the Illinois EPA field personnel have direct personal knowledge of the facts alleged in Complainant's complaint and a significant portion of the information sought in Morfey's interrogatories. The Illinois EPA personnel have not been made available, and therefore the People have been unable to compile its responses to Morfey's discovery.

6. In order to adequately and completely respond to Morfey's discovery requests in this case, the People must be able to confer with potential Illinois EPA witnesses, review all relevant documents, and obtain the necessary certifications. The People will be unable to accomplish this prior to the currently pending discovery date.

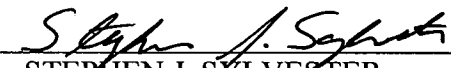
7. Section 101.522 of the Board Procedural Regulations, 35 Ill. Adm. Code 101.522, provides that "[t]he Board or hearing officer, for good cause shown on a motion after notice to the opposite party, may extend the time for filing any document or doing any act which is required by these rules to be done within a limited period, either before or after the expiration of time."

8. The unexpected lack of access to critical Illinois EPA personnel, potential witnesses, and the relevant documents requested by Respondent Morfey constitutes good cause for extending the date to respond to written discovery requests in this case. Because of the People's lack of access to critical Illinois EPA personnel, potential witnesses, and the People's inability to review and copy relevant Illinois EPA documents requested by Respondent Morfey, it is necessary, and the People respectfully request, that the due date for responses to written discovery requests be extended as provided in Section 101.522 of the Board Procedural Regulations, 35 Ill. Adm. Code 101.522.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, requests that the Hearing Officer or the Board extend the due date for written discovery responses in this matter to a future date for the reasons stated herein.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
by LISA MADIGAN
Attorney General of the State of Illinois

BY: 
STEPHEN J. SYLVESTER
Assistant Attorney General
Environmental Bureau
69 W. Washington St., 18th Floor
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Tel: 312-814-2087

CERTIFICATE OF SERVICE

I, Stephen J. Sylvester, an Assistant Attorney General, do certify that a true and correct copy of the Complainant's Motion Requesting Additional Time to Respond to Discovery Requests of Respondent Mick Morfey and Notice of Filing were sent by certified mail with return receipt requested to the persons listed on the Notice of Filing on November 15, 2007.

BY: 
STEPHEN J. SYLVESTER