

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IMTT ILLINOIS, LLC)	
Petitioner,)	PCB 20-47
)	(Permit Appeal)
v.)	
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

NOTICE OF FILING

PLEASE TAKE NOTICE that I have filed today with the Illinois Pollution Control Board an APPEARANCE and the Illinois Environmental Protection Agency's MOTION FOR EXTENSION OF TIME TO FILE A RECORD in the above-captioned proceeding, a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/Christine M. Zeivel
Assistant Counsel
Division of Legal Counsel

DATED: March 17, 2020

1021 N. Grand Ave. East
P.O. Box 19276
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(217) 782-5544

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IMTT ILLINOIS, LLC)	
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)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

APPEARANCE

The undersigned hereby enters her appearance as an attorney on behalf of the Illinois Environmental Protection Agency.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/Christine M. Zeivel
Assistant Counsel
Division of Legal Counsel

DATED: March 17, 2020

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MOTION FOR EXTENSION OF TIME
TO FILE A RECORD

The Illinois Environmental Protection Agency ("Illinois EPA" or "Agency"), by and through its counsel and pursuant 35 Ill. Adm. Code 101.522, hereby requests the Hearing Officer grant the Illinois EPA a 90-day extension of time to file a record in the above-captioned proceeding. In support therefore, the following statements are made:

1. On January 9, 2020, IMTT Illinois, LLC ("IMTT") timely filed a request to extend the 35-day period within which to appeal a December 13, 2019 Illinois EPA permit determination.
2. On January 16, 2020, the Illinois Pollution Control Board ("Board") granted the extended period as requested for thirty (30) days to February 20, 2020.
3. On February 6, 2020, IMTT filed a request for an unopposed motion for a sixty (60) day extension of the appeal period to afford itself the entire time period statutorily allowed.
4. On February 20, 2020, the Board denied IMTT's extension request as outside of the 35-day period allowed following Illinois EPA's final decision. ("Board Order"). However, under the circumstances, the Board construed IMTT's unopposed request as a timely petition for review of Illinois EPA's determination, with an opportunity to file an amended petition by April 20, 2020.

5. Section 105.116(a) of the Board's General Provision regulations require Illinois EPA to file the entire record of its decision within thirty (30) days after the filing of a petition for review unless the Board or hearing officer order a different filing date. Any agency wishing to seek additional time to file the record must file a request for extension before the date on which the record is due to be filed.

6. In this case, there was no way for Illinois EPA to know that IMTT's February 2, 2020 motion for extension would be construed as a petition for review. Therefore, Illinois EPA believes that any deadline for filing its record must follow the Board's Order finding such.

7. Should the Board find that February 20, 2020 Board Order is the trigger date for Illinois EPA's obligation to file its records, a 30-day deadline pursuant to Section 105.116(a) would require the record to be filed by Saturday March 21, 2020, or the following workday, Monday March 23, 2020.

8. Should the Board find that February 20, 2020 is the trigger date for Illinois EPA's obligation to file its records, this motion for extension should be considered timely.

9. Starting March 17, 2020, all State of Illinois agencies, including Illinois EPA, have been ordered to limit their workforce to essential personnel in response to the coronavirus pandemic. This immediate workforce reduction will make it impossible for Illinois EPA to meet a March 23, 2020 filing deadline.

10. Furthermore, the parties are currently in discussions in an attempt to settle or limit issues involved in IMTT's petition for review of its permit terms.

11. Extending Illinois EPA's deadline for filing a record ninety (90) days from the Board's Order will align with any modified petition for review IMTT might file by its April 20, 2020 deadline. Like the 30-day deadline imposed by Section 105.116(a), a record filing deadline

of May 20, 2020 will allow Illinois EPA thirty (30) days to file its record following any modified petition for review IMTT files by April 20, 2020.

12. Counsel for Illinois EPA and IMTT have discussed the contents of this motion and agree that an extension of time for filing of the record is appropriate.

WHEREFORE, for the reasons stated herein, Illinois EPA respectfully recommends that the Hearing Officer grant Illinois EPA's MOTION FOR EXTENSION OF TIME TO FILE A RECORD, and order that the Illinois EPA's filing deadline is extended until May 20, 2020.

Respectfully Submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/Christine M. Zeivel
Assistant Counsel
Division of Legal Counsel

Date: March 17, 2020
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P.O. Box 19276
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CERTIFICATE OF SERVICE

I, the undersigned, on affirmation certify the following:

That I have served a copy of the foregoing NOTICE OF FILING, APPEARANCE, and MOTION FOR EXTENSION OF TIME TO FILE A RECORD on persons listed on the Service List by e-mail at the e-mail addresses listed on the Service List, unless otherwise noted on the Service List.

That my e-mail address is Christine.Zeivel@illinois.gov.

That the number of pages in the e-mail transmission is six (6).

That the e-mail transmission took place before 4:00 p.m. on March 17, 2020.

By: /s/Christine M. Zeivel
Assistant Counsel
Division of Legal Counsel

SERVICE LIST

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