

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JAN 05 2015

STATE OF ILLINOIS
Pollution Control Board

LARRY KELLY, d/b/a RIVER SHANNON)
RECYCLING,)
Petitioner,)
v.)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Respondent.)

PCB 15- 133
(Permit Appeal / RCRA Closure-
Ninety Day Extension)

NOTICE



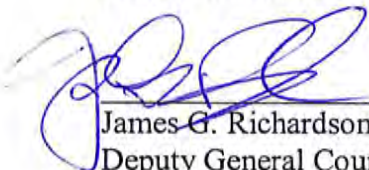
ORIGINAL

John Therriault
Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601-3218

Larry Kelly
7144 North Harlem Avenue, Suite 303
Chicago, Illinois 60631

PLEASE TAKE NOTICE that I have today caused to be filed a 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


James G. Richardson
Deputy General Counsel

Dated: December 30, 2014
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

LARRY KELLY, d/b/a RIVER)
SHANNON RECYCLING,)
Petitioner,)

v.)

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Respondent.)

PCB No. 15-133
(Permit Appeal / RCRA Closure-
Ninety Day Extension)

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

NOW COMES the Respondent, the Illinois Environmental Protection Agency ("Illinois EPA"), by one of its attorneys, James G. Richardson, Deputy General 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 April 3, 2015, 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:

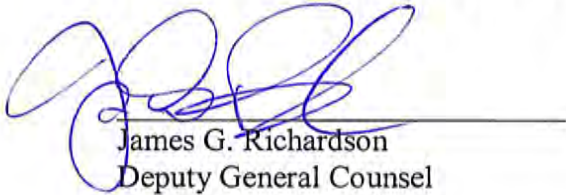
1. On November 26, 2014, the Illinois EPA issued a final decision to the Petitioner.
2. On December 23, 2014, the Petitioner made a written request to the Illinois EPA for an extension of time by which to file a petition for review, asking the Illinois EPA to join in requesting that the Board extend the thirty-five day period for filing a petition by ninety days. Upon information and belief, the Petitioner received the final decision on or about November 29, 2014.

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



James G. Richardson
Deputy General Counsel

Dated: December 30, 2014

1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)

THIS FILING IS SUBMITTED ON RECYCLED PAPER



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-2829

PAT QUINN, GOVERNOR

LISA BONNETT, DIRECTOR

217-524-3300

November 26, 2014

CERTIFIED MAIL

7012 0470 0001 2976 5377

Larry Kelly
7144 N. Harlem Avenue, Suite 303
Chicago, Illinois 60631

RE: 0312580006 – Cook County
River Shannon Recycling
ILD005234141
Log No. C-883
Received: May 19, 2014, and September 8, 2014
RCRA-Closure

Dear Mr. Kelly:

This is in response to your May 12, 2014 and September 6, 2014 submittals regarding the above-referenced facility located at 137605 South Halsted St., Riverdale, Illinois. In the first submittal, you discuss the need for RCRA closure at the subject facility and contend that RCRA closure is not necessary. In the second submittal, you discuss a USEPA ruling which requires you to submit and conduct a RCRA closure at the above-referenced facility, as well as some of the site inspection activities conducted by USEPA. The second submittal also included a document titled "RCRA Hazardous Waste Management Alternate Closure Plan".

Illinois EPA has reviewed the submittals discussed above as well as information from USEPA with respect to inspections conducted at the above-referenced facility and the legal actions which resulted from those inspections. Based on this review, Illinois EPA has the following comments:

1. With respect to the May 12, 2014 submittal, you contend that RCRA closure is not necessary. However, based on a review of the information in your letter, as well as a report of an inspection conducted by United States Environmental Protection Agency (USEPA) on October 30, 2007, and a ruling by USEPA issued December 14, 2012 (Docket Number RCRA-05-201-0015) it appears that the subject facility was engaged in the acceptance, storage, and treatment of hazardous waste without a RCRA permit.

As pointed out by both USEPA (in its ruling) and Illinois EPA (in correspondence to you dated October 16, 2000 from Joyce L. Munie, P.E., Manager, Bureau of Land Permit Section), the activities carried out at the facility fall outside the scope of the Universal Waste Rule, and are fully regulated as hazardous waste management activities needing a RCRA permit. As the subject facility has no RCRA permit, it must undergo RCRA closure as specified in USEPA rulings identified above and submit a closure plan to Illinois EPA for review and approval for the facility which meets the requirements of 35 Ill. Admin. Code 724, Subpart G.

4302 N. Main St., Rockford, IL 61103 (815) 987-7760
595 S. State, Elgin, IL 60123 (847) 608-3131
2125 S. First St., Champaign, IL 61820 (217) 278-5800
2009 Main St., Collinsville, IL 62234 (618) 346-5120

9511 Harrison St., Des Plaines, IL 60016 (847) 294-4000
412 SW Washington St., Suite D, Peoria, IL 61602 (309) 671-3022
2309 W. Main St., Suite 116, Marion, IL 62959 (618) 993-7200
100 W. Randolph, Suite 10-300, Chicago, IL 60601 (312) 814-6026

2. The September 6, 2014 submittal included an "Alternate Closure Plan" that outlined several activities to be conducted with respect to the "Lamp Staging Area", and claimed that most of these activities were already conducted when River Shannon Recycling (RSR) vacated the property. However, no evidence of these completed activities was provided, nor were any analytical results from sampling activities. Furthermore there was no certification of completion of closure from a qualified licensed professional engineer as required by 35 Ill. Admin. Code 724.215.

In addition to the above deficiencies, the "Alternate Closure Plan" fails to address several concerns that Illinois EPA has with respect to the facility. When the facility was inspected by Todd Brown of USEPA Region V (on both November 26, 2007, and May 26, 2011), it was noted the several piles of broken lamp residue were located throughout the facility, both inside the building, and in the South Yard. Also, several cracks, floor drains, and troughs appear to be located throughout the building floor and the asphalt pad covering the South Yard. Note that the second inspection was conducted after the purported "closure" activities would have been completed. Based on this evidence, and the requirements of the USEPA order, the entire facility must be addressed under a RCRA closure plan and investigated for potential contaminant migration through: (a) any such openings in the building floor and the asphalt pad of the South Yard; and (b) run-off from the edges of the asphalt pad in the South Yard.

Based upon the deficiencies noted above, Illinois EPA cannot approve your May 12, 2014 and September 6, 2014 submittals as RCRA closure plans for the subject facility. A revised closure plan meeting the requirements of 35 Ill. Adm. Code 724, Subpart G must be submitted to Illinois EPA for review and approval within 90 days of the date of this letter. This revised closure plan must be developed in accordance with the afore-mentioned regulations, Illinois EPA's guidance document for RCRA closure plan available on its internet site (www.epa.state.il.us) and include, but not be limited to, the following:

1. A discussion of all locations within the facility where waste was managed, and how waste was managed in each location. This must include scaled drawings and descriptions of any structures or devices which might have mitigated migration of contamination. Note that an inspection conducted by Todd C. Brown of USEPA on October 30, 2007 indicates several areas where waste materials were located (and apparently improperly managed) at the facility at that time.
2. A detailed discussion of any activities that have already been conducted in an effort to clean up the facility, including evidence (pictures, reports, receipts, etc.) that these activities were conducted, and when they were conducted. At a minimum, all areas with a concrete or asphalt base where hazardous waste was managed must be decontaminated. In addition, soil samples must be collected and analyzed for possible releases of hazardous waste in areas where hazardous waste was managed which had not concrete or asphalt base.

3. A detailed discussion of potential migration routes for hazardous constituents. For example, cracks in concrete, storage outdoors, storm and/or sanitary sewage drains, troughs, run-off, etc. must be identified and procedures described for investigating/remediating any contamination which was migrated through or to these features.
4. Because USEPA inspection noted that wastes besides lamps were managed at this facility (lead acid batteries, and electronic components), Illinois EPA all soil samples collected for analysis must be analyzed for a minimum of arsenic, cadmium, chromium, lead, mercury, selenium, and silver.

This letter shall constitute Illinois EPA's final decision on the subject submittals. 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 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 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.

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, your submittal 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

Mr. Larry Kelly
Log No. C-883
Page 4

If you have any questions regarding this letter, please contact Mark L. Crites at 217-524-3269.

Sincerely,



Stephen F. Nightingale, P.E.
Manager, Permit Section
Bureau of land

SFN:MLC:0312580006-C883-approval.docx

JKH ml
cc: Todd Brown, USEPA Region V (via e-mail)

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JAN 05 2015

STATE OF ILLINOIS
Pollution Control Board

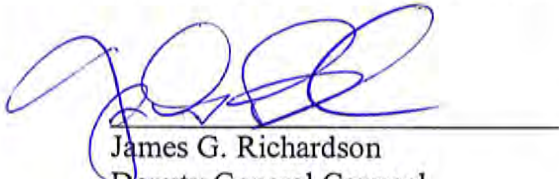
CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on December 30, 2014 I served true and correct copies of a REQUEST FOR NINETY DAY EXTENSION OF APPEAL PERIOD by first class mail of the United States Postal Service upon the persons as follows:

John Therriault
Clerk
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601-3218

Larry Kelly
7144 North Harlem Avenue, Suite 303
Chicago, Illinois 60631

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY



James G. Richardson
Deputy General Counsel
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