



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

Legislation Text

File #: 10-1235, **Version:** 1

TRANSMITTAL LETTER FOR BOARD MEETING OF OCTOBER 21, 2010

COMMITTEE ON JUDICIARY

Mr. Richard Lanyon, Executive Director

Authority to file Release(s) of Lien for 2008 and 2009 Non-Compliance Enforcement Charges for Pioneer Plating Co., and authorize the General Counsel to take all necessary steps to release the liens and resolve this matter in accordance with the conditions set forth herein

Dear Sir:

Pioneer Plating Co., Inc. (Pioneer) is a former electroplating facility located at 2101 N. Cicero Avenue, Chicago, Illinois (Property). Pioneer's Discharge Authorization Permit expired on June 30, 2007 and District personnel inspected the Property on May 24, 2007, and verified that Pioneer had ceased operations. On July 10, 2008, the District issued Cease & Desist (C&D) Order No. 84043 and on April 24, 2009, the District issued C&D Order No. 85018 for alleged violations of Appendix B of the Sewage & Waste Control Ordinance (Ordinance). While Pioneer was no longer operating at the Property, the Appendix B violations appeared to be coming from the flushing of residual contamination from the service connection and the approximately four feet of standing water in the Property's basement that, when combined with rain events would cause occasional flow through the Property's sewer and into the District's system, allegedly exceeding Appendix B limits.

On May 12, 2009, District enforcement staff participated in a meeting with Pioneer, wherein Pioneer's attorney took the position that Pioneer was no longer a User, as that term is defined in the Ordinance, due to its having ceased operations in 2007 and should never have been issued a C&D Order. District technical staff disagreed with this position and forwarded Non Compliance Enforcement Charges (NCE) for 2008 and 2009 to the District's Law Department.

On July 22, 2009, the District's Law Department filed two NCE Liens for 2008 and 2009, totaling \$5,380.00. Pioneer's attorney responded by demanding that the District release the liens and submitted a draft Complaint to Quiet Title and for Slander of Title (Complaint) to be filed with the Circuit Court of Cook County in the event the District did not remove its liens. Pioneer also requested a one time Discharge Authorization to pump approximately four feet of standing water from the Property's basement.

The District's Law Department consulted with Pioneer's counsel with the goals of preventing any additional discharges from the Property in excess of the Ordinance limits, remove any potential safety hazard due to the presence of standing water in the Property's basement and, if possible, to avoid the expense and uncertainty of litigation. Ultimately, District staff required Pioneer to demonstrate that the standing water in the basement did not contain compounds in excess of the District's Appendix B limits. Pioneer retained and paid for an independent environmental consultant who confirmed to the Monitoring and Research Department's satisfaction that the discharged water complied with Appendix B limits. District staff then authorized a one time Discharge Authorization for Pioneer to pump the standing water from the Property's basement into the District's system. District staff supervised this one time discharge and confirmed that it did not violate the District's Ordinance, while at the same time removing any potential safety hazard from the Property. Additionally, District staff assessed field service and administrative review fees totaling \$584.39.

In exchange for Pioneer completing each of the matters set forth above, the District Law Department agreed to recommend to the Board of Commissioners that the District release its two liens and thereby avoid the expense and uncertainty of litigation. Any releases will be conditioned upon Pioneer first paying the District its administrative fees prior to the release of the two liens. Additionally, the District will obtain a General Release from Pioneer that releases the District from any and all liability, including the draft Complaint previously submitted by Pioneer's counsel.

It is requested that the Board of Commissioners authorize the District to File Release(s) of Lien for 2008 and 2009 Non-Compliance Enforcement Charges and authorize the General Counsel to take all necessary steps to release the liens and resolve this matter in accordance with the conditions set forth herein.

Requested, Frederick M. Feldman, General Counsel, FMF:RH:BOC:jvs

Respectfully Submitted, Terrence J. O'Brien, Chairman Committee on Judiciary

Disposition of this agenda item will be documented in the official Regular Board Meeting Minutes of the Board of Commissioners for October 21, 2010