

ILLINOIS POLLUTION CONTROL BOARD

December 4, 2003

MATE TECHNOLOGIES, INC.,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 04-75
	)	(Citizens Enforcement - Land)
F.I.C. AMERICA CORPORATION,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by T.E. Johnson):

On October 24, 2003, Mate Technologies, Inc. (Mate) filed a complaint against F.I.C. America Corporation (FIC). *See* 415 ILCS 5/31(d) (2000); 35 Ill. Adm. Code 103.204. Mate alleges that FIC violated Sections 9(a), 12(a), and 21(e) of the Environmental Protection Act (Act) (415 ILCS 5/9(a), 12(a) and 21(e) (2002) as well as 35 Ill. Adm. Code 703.121(a), 722.111, 739.122(a), 739.181 and 815.201. Mate further alleges that FIC violated these provisions by failing to contain or control the oil disseminated from its operations and allowing the release of oil through windows, doors and other openings in the building and via storm sewers on the property. The complaint concerns property located at 4750 Rohlwing Road, Itasca, Cook County. On November 12, 2003, FIC filed a motion for extension of time in which to file a motion to dismiss under Section 101.506 of the Board's procedural rules. *See* 35 Ill. Adm. Code 101.506.

Section 101.304(c) of the Board's procedural rules requires that "service of enforcement complaints . . . must be made personally, by registered or certified mail, or by messenger service." 35 Ill. Adm. Code 101.304(c).

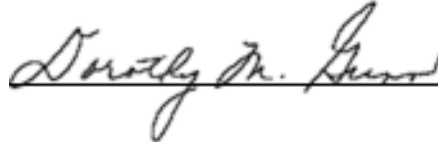
Likewise, Section 103.204(a) of the Board's procedural rules provides that, "an enforcement proceeding will be commenced by the service of a notice and complaint by registered certified mail, messenger service, or personal service upon all respondents and the filing of one original and nine copies of the notice and complaint with the [Board's] Clerk." 35 Ill. Adm. Code 103.204(a). Proof of service must be filed with the Board. *See* 35 Ill. Adm. Code 101.304(d).

To date, the Board has not received any proof of service in this case. Although FIC's motion for extension of time makes clear that FIC is aware of the complaint, the Board's procedural rules require that proof of service be filed with the Board. Accordingly, Mate must file proof of service within 14 days of the date of this order or the complaint will be subject to dismissal. Any questions the parties have should be directed to Hearing Officer Brad Halloran at (312) 814-3620.

The Board will reserve its ruling on accepting the complaint for hearing until the proof of service is filed. In addition, the motion for extension of time is referred to the hearing officer for disposition.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 4, 2003, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board