

ILLINOIS POLLUTION CONTROL BOARD

January 22, 2004

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 December 4, 2003, the Board issued an order in this matter directing Mate Technologies, Inc. (Mate) to file proof of service of the complaint within 14 days of the date of this order or have their complaint subject to dismissal. The Board reserved ruling on whether or not to accept the complaint for hearing until the proof of service was filed. Mate filed the requisite proof of service on December 17, 2003.

The complaint at issue was filed on October 24, 2003, 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.

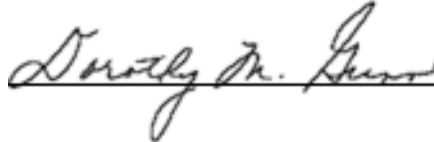
Section 31(d) of the Act (415 ILCS 5/31(d) (2002)) allows any person to file a complaint with the Board. Section 31(d) further provides that “[u]nless the Board determines that such complaint is duplicative or frivolous, it shall schedule a hearing.” *Id.*; *see also* 35 Ill. Adm. Code 103.212(a). A complaint is duplicative if it is “identical or substantially similar to one brought before the Board or another forum.” 35 Ill. Adm. Code 101.202. A complaint is frivolous if it requests “relief that the Board does not have the authority to grant” or “fails to state a cause of action upon which the Board can grant relief.” *Id.* Within 30 days after being served with a complaint, a respondent may file a motion alleging that the complaint is duplicative or frivolous. 35 Ill. Adm. Code 103.212(b). FIC has filed no motion. There is no evidence before the Board that indicates that the allegations of the complaint are duplicative or frivolous.

The Board accepts the complaint for hearing. *See* 415 ILCS 5/31(d) (2000); 35 Ill. Adm. Code 103.212(a). A respondent’s failure to file an answer to a complaint within 60 days after receiving the complaint may have severe consequences. Generally, if respondent fails within that timeframe to file an answer specifically denying, or asserting insufficient knowledge to form

a belief of, a material allegation in the complaint, the Board will consider respondent to have admitted the allegation. 35 Ill. Adm. Code 103.204(d). The Board directs the hearing officer to proceed expeditiously to hearing.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 22, 2004, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board