BEFORE THE ILLINOIS POLLUTION CONTROL BOARD RECEIVED CLERK'S OFFICE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, AC 04-77 STATE OF ILLINOIS Pollution Control Board V. (IEPA No. 265-04-AC) FRANK BENCIE, Respondent.

NOTICE OF FILING

To: Frank Bencie

10220 Bencie Lane

West Frankfort, Illinois 62896

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled APPEARANCE and MOTION TO FILE INSTANTER.

Respectfully submitted,

Michelle M. Ryan

Special Assistant Attorney General

Illinois Environmental Protection Agency 1021 North Grand Avenue East P.O. Box 19276 Springfield, Illinois 62794-9276 (217) 782-5544

Dated: November 21, 2005

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED CLERK'S OFFICE

DEC 0 6 2005

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)	STATE OF ILLINOIS Pollution Control Board
Complainant,)	AC 04-77
v.)	(IEPA No. 265-04-AC)
FRANK BENCIE,)	•
Respondent.)	

ENTRY OF APPEARANCE

The undersigned hereby enters her appearance in the above-captioned matter as counsel for the Illinois Environmental Protection Agency.

Respectfully submitted,

Michelle M. Rvan

Special Assistant Attorney General

DATED: November 21, 2005

Illinois Environmental Protection Agency 1021 North Grand Avenue East Springfield, IL 62702-4059 (217) 782-5544

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED CLERK'S OFFICE

ILLINOIS ENVIRONMENTAL)	DEC 0 6 2005	
PROTECTION AGENCY,)	STATE OF ILLINOI Pollution Control Box	s
Complainant,)	AC 04-77	₹rd
v.)	(IEPA No. 265-04-AC)	
FRANK BENCIE,)		

MOTION TO FILE INSTANTER

Respondent.

NOW COMES the Complainant, the Illinois Environmental Protection Agency ("Illinois EPA"), by and through its attorney, Michelle M. Ryan, pursuant to 35 Ill. Adm. Code 101.522, and respectfully states as follows:

- (1) This matter was initially filed on May 14, 2004 on behalf of the Illinois EPA by the undersigned attorney. No specific designation of lead counsel was made by Illinois EPA in this proceeding. Pursuant to 35 Ill. Adm. Code 101.400(a)(4), the undersigned attorney was designated lead counsel in this matter by operation of rule.
- (2) On December 8, 2004, James M. Kropid filed a formal appearance on behalf of Illinois EPA as the newly assigned attorney.
- (3) The undersigned attorney was reassigned to this matter prior to hearing, participated in status calls with the assigned Hearing Officer, and scheduled the matter for hearing on November 17, 2005.
- (4) The undersigned attorney prepared a formal written appearance, as required by 35 Ill. Adm. Code 101.400(a)(4), in advance of hearing for filing during the hearing. However, the required

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documents were inadvertently left on the undersigned attorney's desk in Springfield when she traveled to Franklin County for the hearing.

(5) No specific timeframe is set forth in the Board's rules for the filing of a written

appearance, although the undersigned attorney has previously filed written appearances at or prior to

hearing.

(6) Pursuant to 35 Ill. Adm. Code 101.522, the Board may allow for an extension of time for

filing any document either before or after the due date.

(7) Respondent did not object at hearing to the lack of a formal written appearance.

(8) No prejudice will result by granting this motion, as the Hearing Officer and Respondent

were kept informed of the assigned attorney at all times, and this case does not contain a statutory

decision deadline.

WHEREFORE, Illinois EPA requests that the Board grant this Motion to File Instanter and

accept the undersigned attorney's appearance as timely filed.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Complainant

DATED: November 21, 2005

Michelle M. Ryan

Special Assistant Attorney General

Illinois Environmental Protection Agency 1021 North Grand Avenue East P.O. Box 19276 Springfield, Illinois 62794-9276 (217) 782-5544

THIS FILING SUBMITTED ON RECYCLED PAPER

PROOF OF SERVICE

I hereby certify that I did on the 21st day of November, 2005, send by U.S. Mail with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instrument(s) entitled APPEARANCE and MOTION TO FILE INSTANTER

To: Frank Bencie

Carol Webb

10220 Bencie Lane

Hearing Officer

West Frankfort, Illinois 62896

Illinois Pollution Control Board 1021 North Grand Avenue East

P.O. Box 19274

Springfield, Illinois 62794-9274

and the original and nine (9) true and correct copies of the same foregoing instruments on the same date by U.S. Mail with postage thereon fully prepaid

To: Dorothy Gunn, Clerk

Pollution Control Board James R. Thompson Center

100 West Randolph Street, Suite 11-500

Chicago, Illinois 60601

Michelle M. Ryan

Special Assistant Attorney General

Illinois Environmental Protection Agency 1021 North Grand Avenue East P.O. Box 19276 Springfield, Illinois 62794-9276 (217) 782-5544

THIS FILING SUBMITTED ON RECYCLED PAPER