

ILLINOIS POLLUTION CONTROL BOARD
April 2, 2009

JACK TARKOWSKI,)	
)	
Petitioner,)	
)	
v.)	PCB 09-62
)	(Hearing Request Under
ILLINOIS ENVIRONMENTAL)	415 ILCS 5/34(d))
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by G.T. Girard):

For the reasons given below, the Board directs Jack Tarkowski to file proof of service of this action on the Illinois Environmental Protection Agency (IEPA) on or before April 24, 2009, or this action will be subject to dismissal.

On January 27, 2009, Jack Tarkowski filed a one-page letter (1/19/09 Letter) requesting a hearing under Section 34(d) of the Environmental Protection Act (Act), 415 ILCS 5/34(d)(2006). The subject of the request for hearing “to be conducted by mail” is a “seal order” entered by the Illinois Environmental Protection Agency (IEPA). 1/19/09 Letter at 1.

On February 19, 2009, in response to a telephone call from the Board’s Assistant Clerk, Tarkowski submitted a four-page cover letter (2/19/09 Letter) expressing his concerns in more detail than his January 19, 2009 letter. Appended to the letter were 13 attachments. Attachment (Attach.) 1 is a copy of a July 7, 2006 seal order issued by the IEPA under Section 34(b) of the Act, 415 ILCS 5/34(d).

The seal order states the IEPA findings that led to issuance of the order. The order applies to the property owned by Jack Tarkowski at 27275 W. Lakeview Drive South, Lakeland Estates Subdivision, Wauconda, Lake County. 2/19/09 Letter, Attach. 1 at 1. The order recites that there is significant waste on the property, dumped to fill wetlands and construct roads. The order notes that there was an increase in waste observed between inspections in 2004 and 2006, despite the fact that Mr. Tarkowski had been ordered by a court to stop dumping. The order concludes that the conditions at the property “constitute an emergency that poses an immediate threat to human health any person entering onto the Tarkowski property and to the environment. *Id.* at 2. The order goes on to seal the property and to prohibit entry except for specified persons. The order provides:

SAID PROPERTY SHALL REMAIN SEALED UNTIL SUCH TIME AS THIS SEAL ORDER HAS BEEN RESCINDED BY THE ILLINOIS EPA. THE ILLINOIS EPA WILL NOT RESCIND THIS SEAL ORDER UNTIL THE CONTAMINATION PRESENT AT THE SITE HAS BEEN REMEDIATED TO

THE SATISFACTION OF THE ILLINOIS EPA, INCLUDING ALL
CONTAMINATION WHICH HAS OR MAY CONTAMINATE
SOILS, SURFACE WATERS, OR GROUNDWATER.

It is a Class A misdemeanor to break any seal or operate any sealed facility until the seal is removed according to law. *Id.* at 3 (all emphasis in original).

Mr. Tarkowski's letter and its attachments relate some of the history at the site, including court actions involving it. Mr. Tarkowski's letter concludes:

I have asked for a hearing under Section 32 (sic) to remove the barricade [across our driveway, prohibiting access to the property and still up], and I will demand compensation from the IEPA for the home invasions and damages, which were thrown out of the Court of Claims, on IEPA clout and collusion, in Case No. 07 CC 1487, in which they claimed lack of jurisdiction by the Court of Claims. I have more documentation if needed, ask for what you needs, to end this IEPA dictatorship and despotism. 2/19/09 Letter at 4-5.

This is the Board's first order in this action, which has been docketed by the Clerk's Office, but not formally accepted by the Board. The Board notes that the Board's procedural rules do not include a Part that exclusively implements the provisions of Section 34 of the Act (415 ILCS 5/34 (2006)) concerning the lifting of a seal by the Board. However, the Board's rules at 35 Ill. Adm. Code 105.Subpart B govern appeals of final IEPA decisions, including permit decisions. 35 Ill. Adm. Code 105.200-105.214. Therefore, the Board will conduct this matter under the procedures of 35 Ill. Adm. Code 105.Subpart B. The Board directs its Clerk to send Mr. Tarkowski a copy of the procedural rules.

Before accepting this matter, the Board notes that the record does not indicate that Mr. Tarkowski's letters were sent to the IEPA. Section 105.106 provides that the service requirements of 35 Ill. Adm. Code Part 101.Subpart C apply to proceedings under 35 Ill. Adm. Code 105. As Mr. Tarkowski seeks to have the Board lift an IEPA seal order, Mr. Tarkowski must supply the Board with proof that he has served copies of all documents on the IEPA as required by Section 101.304 "Service of Documents". On or before April 24, 2009, Mr. Tarkowski must supply the Board with an affidavit or certificate of service that all documents have been served on the IEPA as required in Section 101.304(d), or this action will be subject to dismissal.

The Board notes that on March 4, 2009, Evan J. McGinley of the Office of the Attorney General, requested the Clerk of the Board to add him to the service list in this proceeding. The Board also directs Mr. Tarkowski to send Mr. McGinley a copy of the documents he sends IEPA under this order, and indicate that he has done so in his affidavit or certificate of service under 35 Ill. Adm. Code 101.304.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 2, 2009, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish at the end.

John Therriault, Assistant Clerk
Illinois Pollution Control Board