

ILLINOIS POLLUTION CONTROL BOARD  
May 21, 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):

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 April 2, 2009, the Board entered an order that noted the Board order was the first order in this action. The April 2, 2009 Board order further noted that the proceeding was docketed by the Clerk’s Office, but not formally accepted by the Board. In the April 2, 2009 order, the Board also indicated that while procedural rules do not include a Part that exclusively implements the provisions of Section 34 of the Act (415 ILCS 5/34 (2006)), 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 as an appeal of an IEPA decision under the procedures of 35 Ill. Adm. Code 105.Subpart B.

The April 2, 2009 order then stated:

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.

On April 8, 2009, the Board received a response from Mr. Tarkowski in which Mr. Tarkowski stated that the Board’s April 2, 2009 order “wrongly assumes that I have not served

pleading upon Plaintiff [*sic*] counsel of record.” April 8, 2009 letter at 1. Mr. Tarkowski enclosed several documents with the letter which he describes as:

1. A Subpoena *Duces Tecum* served on the Attorney General;
2. McGinley’s Motion to Quash;
3. A Subpoena *Duces Tecum* served on our bank, concerning McGinley’s confiscating our senior citizens’ Social Security funds account, without notice to us, by the serving on the bank a citation;
4. To discover assets, that McGinley claimed was a court “hold order” when he took these funds, and,
5. A response from the attorney general concerning an FOIA request and no knowledge to identify the issue and the subject matter of the bogus “2006-3 Seal Order”, and,
6. A copy of the Subpoena *Duces Tecum* served on IEPA Director Douglas P. Scott, which was ignored. *Id.*

Section 34(d) of the Act (415 ILCS 5/34(d) (2006)) provides that the owner of any facility sealed under Section 34 is “entitled to a hearing pursuant to Section 32” of the Act (415 ILCS 5/32 (2006)). The Board’s procedural rules implement the provisions of Section 32 of the Act (415 ILCS 5/32 (2006)) and require that parties to adjudicatory proceedings serve all documents they file with the Clerk’s office and proof of that service must be filed with the Clerk’s Office. 35 Ill. Adm. Code 101.304(a). The Board’s rules provide that “service may be effectuated by U.S. Mail or other mail delivery service, in person, by messenger, or as prescribed in Section 101.302(d).” 35 Ill. Adm. Code 101.304(c). Section 101.304(d) provides in part that:

A proceeding is subject to dismissal, and parties are subject to sanctions in accordance with Section 101.800 of this Part, if service is not timely made. Proof of proper service is the responsibility of the party filing and serving the document. An affidavit of service or certificate of service must accompany all filings of all parties. 35 Ill. Adm. Code 101.304(d).

The Board has reviewed the filings from Mr. Tarkowski. None of these filings represent proper proof of service nor do they indicate that Mr. Tarkowski has served the IEPA with the filings in this proceeding. Therefore, the Board dismisses Mr. Tarkowski’s request for hearing under Section 34(d) of the Act (415 ILCS 5/34(d) (2006)).

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 21, 2009 by a vote of 5-0.




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John Therriault, Assistant Clerk  
Illinois Pollution Control Board