

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

NACME Steel Processing, L.L.C., )  
 )  
        *Petitioner.* )  
 )  
 v. )        PCB 13-7 (Permit Appeal)  
 )  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
        *Respondent.* )

**NACME STEEL PROCESSING, L.L.C.'s MOTION TO STRIKE IEPA's REPLY**

Petitioner NACME Steel Processing, L.L.C. ("NACME"), by its attorneys, Reed Smith, LLP., moves to strike the "Reply to Petitioner's Response to Respondent's Motion to Dismiss Amended Petition for Hearing", and in support states:

1. NACME filed a petition for review of an Agency permit decision and the Agency filed first a Motion to Dismiss ("Motion") and then an Amended Motion to Dismiss. NACME filed a Response and the Agency moved to file a Reply ostensibly in order to avoid "prejudice".

2. NACME objected to the IEPA's motion to file the Reply in a Response dated October 16, 2012, but the IEPA filed it anyway and without leave of the Board or the appointed hearing officer.

3. Board rule 101.500 (e) states that a "moving person will not have the right to reply, except as permitted by the Board or the hearing officer to prevent material prejudice. A motion for leave to file a reply must be filed with the Board within 14 days after service of the response."

4. In violation of this Board rule, the IEPA filed a Reply on October 26, 2012.

5. The attorney general was no doubt aware that it did not have permission to file the Reply, as it sought leave, but was not granted leave, to file the Reply in the first case.

6. The attorney general has no special status that allows it to flout the Board's rules.

Accordingly, NACME respectfully requests that the IEPA's Reply to Petitioner's Response to Respondent's Motion to Dismiss Amended Petition for Hearing, be stricken with prejudice.

Dated: October 29, 2012

Respectfully submitted,

**NACME STEEL PROCESSING, L.L.C.,**  
Petitioner

By: \_\_\_\_\_

One of Its Attorneys

Edward V. Walsh, III  
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**CERTIFICATE OF SERVICE**

I, the undersigned, certify that I have served today the attached **NACME STEEL PROCESSING, LLC'S RESPONSE TO IEPA'S MOTION TO FILE REPLY**, by U.S.

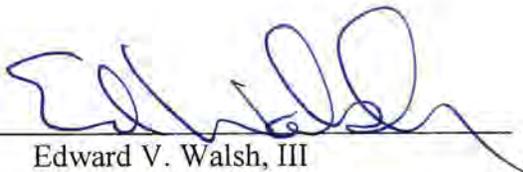
Regular Mail, upon the following persons:

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By:

  
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