

ILLINOIS POLLUTION CONTROL BOARD
November 1, 2001

MILTON C. and VIRGINIA L. KAMHOLZ,)
)
Complainants,)
)
v.) PCB 02-41
) (Citizens Enforcement – Air, Noise)
LAWRENCE and MARIANE SPORLEDER,)
)
Respondents.)

ORDER OF THE BOARD (by E.Z. Kezelis):

This matter is before the Board on the September 26, 2001 filing of a citizen's enforcement complaint by Milton and Virginia Kamholz (complainants) against Lawrence and Mariane Sporleder (respondents). Complainants attached a letter to their complaint, in which they explained that they have been unable to complete service of their complaint on respondents by certified mail, that they were attempting to serve respondents by first class mail, and that they had attached postal receipts reflecting their efforts thus far.

While complainants have made several good-faith efforts to serve the respondents, this case cannot proceed until the respondents are properly served in accordance with the Board's procedural rules. The Board's procedural rules do not permit service of an enforcement complaint by first class mail. Section 101.304(c) of the Board's procedural rules requires that "service of enforcement complaints . . . must be made personally, by registered or certified mail, or by messenger service." 35 Ill. Adm. Code 101.304(c).

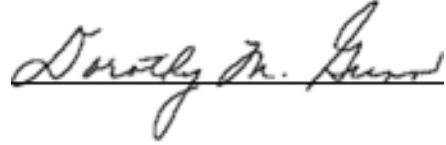
Likewise, Section 103.204(a) of the Board's procedural rules provides that, "[a]n enforcement proceeding will be commenced by the service of a notice and complaint by registered certified mail, messenger service, or personal service upon all respondents and the filing of 1 original and 9 copies of the notice and complaint with the [Board's] Clerk." 35 Ill. Adm. Code 103.204(a). Proof of service must be filed with the Board. *See* 35 Ill. Adm. Code 101.304(d).

As of the date of this order, the record indicates that complainants have not yet been able to effectuate proper service of their complaint on respondents. Complainants must obtain service on the respondents and file proof of that service within 30 days of the date of this order or have their complaint subject to dismissal.

The Board notes that it has assigned Hearing Officer Brad Halloran to this case. Complainants should direct any questions they have to the assigned hearing officer at (312) 814-3620.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 1, 2001, by a vote of 6-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board