

ILLINOIS POLLUTION CONTROL BOARD
March 2, 2000

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|----------------------------------|---|---------------------|
| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB 99-152 |
| |) | (Enforcement - Air) |
| EAGLE-PICHER INDUSTRIES, INC., |) | |
| an Ohio corporation, |) | |
| |) | |
| Respondent. |) | |

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

On January 26, 2000, the complainant, People of the State of Illinois (People) filed a "Motion to Correct Misnomer and to Amend Complaint." In response to a hearing officer request for clarification, a "First Amended Motion to Correct Misnomer and to Amend Complaint" (motion) and the "First Amended Complaint" were filed on February 17, 2000. The People state in their motion that the respondent, Eagle-Picher-Boge, L.L.C., a Delaware Limited Liability Company, has no objection to the motion. Eagle-Picher-Boge, L.L.C., a Delaware Limited Liability Company has not filed a response to the motion.

The original complaint in this matter was filed against "Eagle Picher Boge, L.L.C., an Ohio corporation." On June 16, 1999, respondent filed a motion to dismiss in which it indicated that its name should be reflected as "Eagle-Picher-Boge, L.L.C., a Delaware Limited Liability Company." In its order of July 22, 1999, the Board denied the motion to dismiss and re-captioned the proceeding to reflect the name of respondent as "Eagle-Picher-Boge, L.L.C., a Delaware Limited Liability Company."

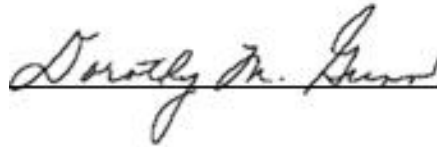
In the motion before us now, the People state that in 1997, Eagle-Picher-Boge, L.L.C., a Delaware Limited Liability Company and Eagle-Picher Industries, Inc., an Ohio corporation, committed to a joint venture in which Eagle-Picher Industries, Inc., an Ohio corporation, maintained a 45% interest and agreed to indemnify and hold harmless Eagle-Picher-Boge, L.L.C., a Delaware Limited Liability Company, for any liability incurred during Eagle-Picher Industries, Inc.'s control of the Edgar County facility that is the subject of the complaint. In light of this information, the People assert that Eagle-Picher Industries, Inc., an Ohio corporation, is the appropriate respondent in this case. Accordingly, the People seek to amend the complaint to reflect "Eagle-Picher Industries, Inc., an Ohio corporation" as the respondent in this proceeding.

The People's motion is granted. The caption of this proceeding has been changed herein and should in all future Board and hearing officer orders reflect "Eagle-Picher Industries, Inc., an Ohio corporation" as the respondent. In granting the People's motion, the

Board makes no finding as to whether Eagle-Picher-Boge, L.L.C., a Delaware Limited Liability Company should be a party to this proceeding. The "First Amended Complaint" is deemed filed as of the date of this order and the People are directed to proceed with service of the "First Amended Complaint" pursuant to Board regulations.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 2nd day of March 2000 by a vote of 6-0.

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

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Dorothy M. Gunn, Clerk
Illinois Pollution Control Board