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JAN 15 2004

STATE OF ILLINOIS
Pollution Control Board

**BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD**

GINA PATTERMANN,)
)
Complainant,)
)
v.)
)
BOUGHTON TRUCKING AND)
MATERIALS, INC.,)
)
Respondent.)

PCB No. 99-187
(Citizens Enforcement - Noise, Air)

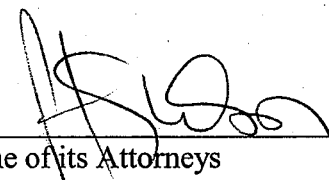
NOTICE OF FILING

TO: See Attached Certificate of Service

Please take notice that on January 15, 2004, I filed with the Illinois Pollution Control Board an original and four copies of this Notice of Filing and the attached Boughton's Motion to Hearing Officer Requesting Additional Time to File Reply Brief, copies of which are attached and hereby served upon you.

Dated: January 15, 2004

BOUGHTON TRUCKING AND MATERIALS, INC.

By:  _____
One of its Attorneys

Mark R. Ter Molen, Esq.
Patricia F. Sharkey, Esq.
Kevin G. Desharnais, Esq.
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MOTION TO HEARING OFFICER
REQUESTING ADDITIONAL TIME TO FILE REPLY BRIEF

NOW COMES Respondent, Boughton Trucking and Materials, Inc. (“Boughton”), by its attorneys, Mayer, Brown, Rowe & Maw LLP, and requests that the Hearing Officer allow Boughton an additional twelve days to file its Reply Brief to the Plaintiff’s late Response Brief.

In support thereof, Respondent states:

1. Pursuant to the Hearing Officer’s order of September 25, 2003 setting the briefing schedule, dispositive motions were due by November 10, 2003 and briefs responding to such motions were due on December 17, 2003. Reply briefs were made due January 16, 2003.
2. Respondent filed a Motion for Summary Judgment on November 10, 2003.
3. Plaintiff did not file a Response Brief nor did she request an extension of time for such filing on December 17, 2003.
4. On December 23, 2003, Respondent filed a motion entitled Motion for Board Action on Motion for Summary Judgment based on the fact that Plaintiff’s failure to respond constituted a waiver of any objection to the granting of the Motion for Summary Judgment.

35 Ill. Admin. Code 101.500(d). The Plaintiff did not respond to that Motion and the Board has not yet acted on that Motion.

5. On December 29, 2003, twelve days after the due date in the Hearing Officer's order, Plaintiff filed a Response Brief together with a Motion to File Instantly. The Board has not yet acted on Plaintiff's Motion to File Instantly.

6. If the Board chooses to allow Plaintiff's Motion to File Instantly and accepts Plaintiff's Response Brief, Respondent has a right to file a Reply Brief and would do so.

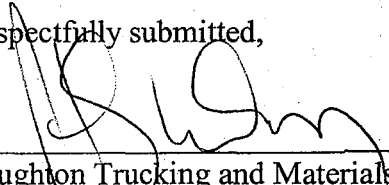
7. Without knowing whether the Board will allow Plaintiff's late filing, Respondent must assume it will need to file a Reply Brief.

8. Respondent's time for filing a Reply Brief under the Hearing Officer's schedule has been unjustly shortened by twelve days based on Plaintiff's late filing of its Response Brief. Respondent is requesting an extension that is commensurate with Plaintiff's delay and consistent with the time originally allowed for the Reply Brief under the Hearing Officer's order.

WHEREFORE, Respondent moves the Hearing Officer to grant it an additional twelve days or until January 28, 2004 to file its Reply Brief.

January 15, 2004

Respectfully submitted,


Boughton Trucking and Materials, Inc.
By One of Its Attorneys

Patricia F. Sharkey
Kevin Desharnais
Mark R. Ter Molen
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312-782-0600
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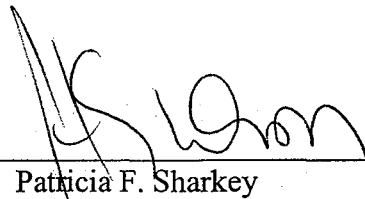
CERTIFICATE OF SERVICE

Patricia F. Sharkey, an attorney, hereby certifies that a copy of the attached Notice of Filing and Boughton's Motion to Hearing Officer Requesting Additional Time to File Reply Brief, was served on the persons listed below by First Class U.S. Mail, proper postage prepaid, on January 15, 2004.

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Illinois Pollution Control Board
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(Courtesy Copy)

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