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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SEP 28 2004

JERSEY SANITATION CORPORATION, an Illinois corporation,)		Pollution Control Board
Petitioner,)	_	
v.)	PCB No. 97-2	
)	(Enforcement)	
ILLINOIS ENVIRONMENTAL PROTECTION)		
AGENCY,)		
	j ,		
Respondent.)		

NOTICE OF FILING AND PROOF OF SERVICE

The undersigned certifies that an original and nine copies of the foregoing Motion for Extension of Time to File Response to Motion for Sanctions were served upon the Clerk of the Illinois Pollution Control Board, and one copy to each of the following parties of record in this cause by enclosing same in an envelope addressed to:

Dorothy Gunn, Clerk Illinois Pollution Control Board James R. Thompson Center 100 W. Randolph St., Suite 11-500 Chicago, IL 60601

Jane McBride Office of Attorney General 500 South Second Street Springfield, IL 62706

Carol Sudman
Hearing Officer
Illinois Pollution Control Board
1021 N. Grand Avenue East
Springfield, IL 62794

with postage fully prepaid, and by depositing said envelope in a U.S. Post Office Mail Box in Springfield, Illinois before 5:30 p.m. on September 24, 2004.

Stephen F. Hedinger

Hedinger Law Office 2601 South Fifth Street Springfield, IL 62703 (217) 523-2753 phone (217) 523-4366 fax This document prepared on recycled paper



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

DEFORE THE ILLINOIS PO	LLUIIU	N CONTROL BOA	STATE OF ILLINOIS Pollution Control Board
PEOPLE OF THE STATE OF ILLINOIS,)		Pollution Control Board
)		
Complainant,)		
)		
v.)	PCB 97-2	
)	(Enforcement)	•
JERSEY SANITATION CORPORATION,)		
an Illinois corporation,	•)		
	•)		
Respondent)		

MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO MOTION FOR

NOW COMES Respondent, JERSEY SANITATION CORPORATION, through its undersigned attorney, and moves this Board, through its hearing officer, for an extension of time to and until October 6, 2004, within which to file its response to the "Motion for Sanctions, Request to Close Record" filed by Complainant. In support of this motion, Respondent states as follows:

- 1. Complainant has filed a motion contending that a "sanction" should be imposed against Respondent to prohibit Respondent from filing a closing brief. In short, Complainant seeks a "death penalty" sanction against Respondent.
- 2. Respondent takes Complainant's motion very seriously. The motion includes mischaracterizations of the record, of the parties' respective actions, and of the history of this case. Complainant's instant motion, in fact, is only the most recent in a long history of attempts to inflict additional "punishment" upon Respondent, a long history that has already resulted in the need for Respondent to appeal from improper permit conditions, then to successfully defend this Board's ruling in the appellate court. Much of the instant enforcement case, in fact, is no more than Complainant's attempt to circumvent this Board's and the Appellate Court's earlier ruling. Moreover, Complainant has relied upon sharp practices in pursuing this enforcement

action, including submitting a new expert opinion, never previously made, just days before the hearing in this matter, and including the submittal of a 138 page closing brief—nearly twice this Board's page limit! Complainant's instant motion has been presented even though to date this Board has never allowed Complainant to file the overstuffed brief, and even though the hearing officer has directed Respondent to submit its responsive brief with a motion for leave to file instanter.

- 3. Respondent requires additional time to fully marshall its arguments and citations in opposition to Complainant's instant motion. A number of previously-scheduled matters have interfered with Respondent's drafting of the response to date, including court appearances, appellate court deadlines, and circuit court pleading deadlines.
- 4. In addition, over the upcoming week counsel for Respondent will be responsible for filing two additional appellate court pleadings, both of which will require research and record review; counsel also has scheduled the closing discovery activities in a Truth In Lending Act class action lawsuit pending in the U.S. District Court.
- 5. In consequence of these competing litigation activities, Respondent requests a reasonable extension of less than two weeks, to and until October 6, 2004, to respond to Complainant's motion.
- 6. The extension requested herein is necessary to provide Respondent adequate opportunity to address the grounds raised in Complainant's motion, and to meet Complainant's arguments which seek to wholly preclude Respondent from directing a closing brief to this Board. Allowance of this motion should have no prejudice on Complainant, but denial will deprive Respondent of a meaningful opportunity to respond to Complainant's motion.

WHEREFORE Respondent, JERSEY SANITATION CORPORATION, requests an extension of time, to and until October 6, 2004, within which to submit its response to the "Motion for Sanctions, Request to Close Records" submitted by Complainant.

Respectfully submitted,

JERSEY SANITATION CORPORATION, Respondent,

By its attorneys HEDINGER LAW OFFICE

By: _______

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