

**BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

E & L TRUCKING COMPANY,)	
Petitioner,)	
v.)	PCB No. 06-50
ILLINOIS ENVIRONMENTAL)	(UST Appeal)
PROTECTION AGENCY,)	
Respondent.)	

NOTICE

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

John Burds, Esq.
1170 South Plymouth Court
Suite 2NE
Chicago, IL 60605

PLEASE TAKE NOTICE that I have today filed with the office of the Clerk of the Pollution Control Board a LIMITED APPEARANCE and MOTION TO DISMISS PETITION, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent

John J. Kim
Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)
Dated: October 18, 2005

CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on October 18, 2005, I served true and correct copies of a LIMITED APPEARANCE and MOTION TO DISMISS PETITION, by placing true and correct copies thereof in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. mail drop box located within Springfield, Illinois, with sufficient First Class postage affixed thereto, upon the following named persons:

Dorothy M. Gunn, Clerk (also via E-Filing)
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

John Burds, Esq.
1170 South Plymouth Court
Suite 2NE
Chicago, IL 60605

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
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LIMITED APPEARANCE

The undersigned, as one of its attorneys, hereby enters his Limited Appearance on behalf of the Respondent, the Illinois Environmental Protection Agency.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent

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Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel
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MOTION TO DISMISS PETITION

NOW COMES the Respondent, the Illinois Environmental Protection Agency ("Illinois EPA"), by one of its attorneys, John J. Kim, Assistant Counsel and Special Assistant Attorney General, and, pursuant to 35 Ill. Adm. Code 101.506, 105.408(b) and 105.408(c), hereby respectfully moves the Illinois Pollution Control Board ("Board") to dismiss the petition for review filed by the Petitioner. In support of said motion, the Illinois EPA states as follows:

1. On September 14, 2005, the Illinois EPA issued a final decision to the Petitioner, E & L Trucking ("E & L"). The final decision was in response to an application for payment of costs for reimbursement from the Illinois Underground Storage Tank Fund.
2. On October 11, 2005, the Petitioner filed a petition for review with the Board. The petition addressed the September 14, 2005 final decision issued by the Illinois EPA.
3. The petition filed by E & L did not specify the date of service of the Illinois EPA's final decision upon the Petitioner.
4. The petition filed by E & L did not specify any grounds for appeal. Rather, the petition merely recited a timeline of events leading up to, and including, the issuance of the September 14, 2005 final decision. The petition then requested that the Board reverse the September 14, 2005 final decision, again without specifying any grounds or bases for such request.

5. Pursuant to Section 105.408(b) and 105.408(c) of the Board's procedural rules (35 Ill. Adm. Code 105.408(b), 105.408(c)), a petition must include the date of service of the final decision being appealed and the specific grounds for appeal, respectively. The petition filed in this matter by the Petitioner did not contain any such information.

WHEREFORE, based upon the Petitioner's failure to comply with the above-referenced Board procedural rules, the Illinois EPA hereby respectfully requests that the Board dismiss the petition in this matter or, in the alternative, require that a petition conforming with all requisite filing and content requirements as set forth in the Board's procedural rules be filed within the time allowed by Section 40 of the Illinois Environmental Protection Act (415 ILCS 5/40).

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent

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