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APR 05 2006

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

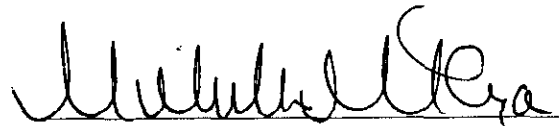
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	AC 06-20
)	
v.)	(IEPA No. 459-05-AC)
)	
GEORGIA SHANK and STEVE SHANK,)	
)	
Respondents.)	

NOTICE OF FILING

To: Georgia Shank	Steve Shank
P.O. Box 195	2222 Dewey Street
Greenville, IL 62246	Greenville, IL 62246

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled COMPLAINANT'S RESPONSE TO MOTION TO DISMISS.

Respectfully submitted,



Michelle M. Ryan
Special Assistant Attorney General

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

Dated: March 30, 2006

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL)	
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)	
GEORGIA SHANK and STEVE SHANK,)	
)	
Respondents.)	

COMPLAINANT'S RESPONSE TO MOTION TO DISMISS

NOW COMES the Complainant, the Illinois Environmental Protection Agency ("Illinois EPA"), by and through its attorney, Michelle M. Ryan, pursuant to 35 Ill. Adm. Code 101.500, and respectfully states as follows:

On March 20, 2006, the Pollution Control Board ("Board") received a filing from Respondents Georgia Shank and Steve Shank (collectively "Respondents"), dated March 16, 2006, titled at the top of the page "Petition for Review" and re-titled under the caption "Motion to Dismiss." Illinois EPA has never been served with this filing, and therefore, this Response does not relate to that document.

On March 27, 2006, the Board received a second filing from Respondents, undated, titled under the caption "Motion to Dismiss." It is this second filing, which was served on Illinois EPA on March 16, 2006, to which this Response pertains. Because Respondents do not have the same current legal status with respect to this case, the filing will be addressed separately as to each Respondent, below.

MOTION FOR FINAL ORDER AS TO RESPONDENT STEVE SHANK

(1) Respondent Steve Shank was served with an Administrative Citation in this case on January 7, 2006. Therefore, pursuant to 415 ILCS 5/31.1(d)(1) (2004), and 35 Ill. Adm. Code 108.204(b), Respondent Steve Shank's Petition for Review was due on February 14, 2006.

(2) By order dated February 16, 2006, the Board found that Respondent Steve Shank had not yet filed a Petition for Review in this case.

(3) The first filing by Respondent Steve Shank in this matter was dated March 16, 2006, and received by the Board on March 20, 2006.

(4) Pursuant to 415 ILCS 5/31.1(d)(1) (2004), and 35 Ill. Adm. Code 108.204(b), Respondent Steve Shank has been in default since failing to file a timely Petition for Review in this matter.

(5) Pursuant to 415 ILCS 5/31.1(d)(1), the Board is required to adopt a final order as to Respondent Steve Shank, finding the violations as alleged in the citation and imposing the penalty specified in 415 ILCS 5/42(b)(4-5).

RESPONSE TO MOTION TO DISMISS BY RESPONDENT GEORGIA SHANK

(6) Respondent Georgia Shank's Motion to Dismiss was filed with the Board on March 27, 2006.

(7) Respondent Georgia Shank was served with the Administrative Citation in this matter on January 7, 2006.

(8) Pursuant to 35 Ill. Adm. Code 101.506, motions to dismiss are required to be filed “within 30 days after service” of the challenged pleading. Therefore, any motion to dismiss in this case was due by February 6, 2006.

(9) Respondent Georgia Shank’s Motion to Dismiss is untimely, and should be denied.

WHEREFORE, Illinois EPA requests that the Board issue a final order against Respondent Steve Shank as required by 415 ILCS 5/31.1(d)(1) (2004), and deny Respondent Georgia Shank’s Motion to Dismiss.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,
Complainant

DATED: March 30, 2006



Michelle M. Ryan
Special Assistant Attorney General

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

PROOF OF SERVICE

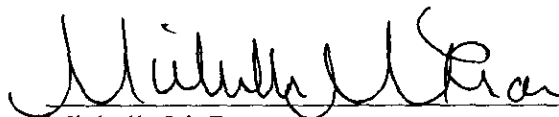
I hereby certify that I did on the 30th day of March, 2006, send by U.S. Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box the following instrument(s) entitled COMPLAINANT'S RESPONSE TO MOTION TO DISMISS

To: Georgia Shank
P.O. Box 195
Greenville, IL 62246

Steve Shank
2222 Dewey Street
Greenville, IL 62246

and the original and nine (9) true and correct copies of the same foregoing instruments on the same date by U.S. Mail with postage thereon fully prepaid.

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


Michelle M. Ryan
Special Assistant Attorney General

Illinois Environmental Protection Agency
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