

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

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SEP 11 2006

STATE OF ILLINOIS
Pollution Control Board

COUNTY OF OGLE,)
)
Complainant,)
)
vs.) NO. AC# 06-53
) (Administrative Citation)
GEORGE C. HEAL,)
)
Respondent.)

NOTICE OF FILING

TO: Assistant State's Attorney Ken Zelazo
State's Attorney's Office of Ogle County, Illinois
106 S. 5th Street, Suite 110
Oregon, IL 61061

PLEASE TAKE NOTICE that I have filed on September 8, 2006, with the Office of the Clerk of the Pollution Control Board the Response of the Respondent to the Board's Direction to Address Adequacy of Service on the Respondent which is hereby served upon you.

Dated: September 8, 2006



DENNIS R. HEWITT
1124 Lincoln Highway
Rochelle, IL 61068
Telephone (815) 562-2704
Attorney for Respondent.

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vs.)	NO. AC# 06-53
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GEORGE C. HEAL,)	
)	
Respondent.)	

**RESPONDENT'S RESPONSE
TO THE BOARD'S DIRECTION TO ADDRESS ADEQUACY OF SERVICE
ON THE COMPLAINANT**

The Respondent, GEORGE C. HEAL, respectfully responds to the Complainant's Response as follows:

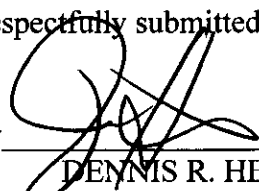
1. It agrees with the Complainant's response in paragraph 1.
2. The Respondent denies that a Citation was served upon the Respondent by certified mail because the certified mail was accepted by a non-authorized non-member of Mr. Heal's household. Therefore, service having been made on a complete stranger to these proceedings, is not effective. Additionally, Adm. Code 101.304 (c) requires that the proof of service of the enforcement complaint be filed with the board upon completion of service. The Respondent has not been provided proof that the County has met this requirement prior to its filing of August 25, 2006.
3. For service to be complete, the date specified must be on the mail receipt indicating that the Respondent received the Complaint.
4. Due process does require service upon the Respondent.
5. The Respondent acknowledges that a Complaint has been filed but his

acknowledgment and response does not alleviate the requirement that the Complainant properly serve the Complainant. The mail receipt submitted by the Complainant indicates that the Respondent was not properly served. The burden of proof lies with the Complainant.

WHEREFORE, the Respondent, GEORGE C. HEAL, requests that the Board dismiss the Administrative Citation by Ogle County because of inadequate service.

Respectfully submitted,

By



DENNIS R. HEWITT, Attorney
for GEORGE C. HEAL

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1124 Lincoln Highway
Rochelle, IL 61068
Telephone (815) 562-2704
Attorney for Respondent.

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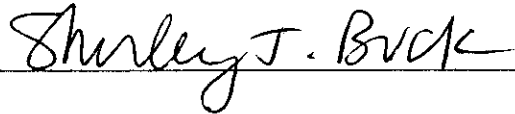
PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing Respondent's Response to the Board's Direction to Address Adequacy of Service on the Respondent was served upon the following:

Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Ste. 11-500
Chicago, IL 60601

Ogle County State's Attorney Office
Attn: John B. Roe
P. O. Box 395
Oregon, IL 61061

by enclosing same in an envelope addressed to them with postage fully prepaid and by depositing said envelope in a U. S. Post Office Mail Box in Rochelle, Illinois, on the 8th day of September, 2006.



DENNIS R. HEWITT
1124 Lincoln Highway
Rochelle, IL 61068
Telephone (815) 562-2704
Attorney for Respondent.