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STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD  
September 8, 2006

IN THE MATTER OF: )  
 )  
PROPOSED AMENDMENTS TO THE ) R06-20  
BOARD'S SPECIAL WASTE ) (Rulemaking - Land)  
REGULATIONS CONCERNING )  
USED OIL, 35 ILL. ADM. CODE 808, 809 )

**HEARING OFFICER ORDER**

On September 6, 2006, counsel for the Illinois Environmental Protection Agency (Agency) sent an e-mail both to the hearing officer and to counsel for NORA, the proponent in proceeding. In that e-mail, the Agency referred to two technical errors in citation to the Federal Register in the Agency's post-hearing comments. The Agency sought to file a correction of its comments with the Board so those citations would be accurate.

In an e-mail sent on September 7, 2006 to the hearing officer and the Agency, counsel for NORA indicated that NORA does not object to correcting those citations as requested. In that reply e-mail, however, NORA sought an opportunity to respond to arguments and assertions that NORA believes the Agency made for the first time in its post-hearing comments.

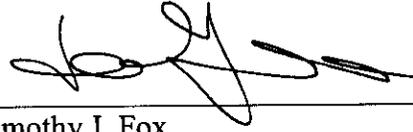
In an e-mail also sent on September 7, 2006 to the hearing officer and NORA, the Agency stated that it "must object to opening the record for substantive comments" and that it "believes sufficient time was allowed to develop post-hearing comments." The Agency further stated that it would not proceed with its request for corrections if that request risks opening the record for further substantive comments.

The hearing officer assures the participants that these two requests are viewed as completely separate issues. First, the Board would certainly object to leaving acknowledged errors uncorrected in its record. Accordingly, the Agency is directed to file the correction of its post-hearing comments on or before Thursday, September 21, 2006. Second, the hearing officer construes NORA's request as a motion for leave to file a response to the Agency's post-hearing comments. NORA suggests that it has not had an opportunity to confront arguments and assertions that the Agency had first made in its comment. NORA's motion is granted specifically as follows: any participant may file a response to the post-hearing comments filed either by the Agency or by NORA on or before Monday, October 9, 2006, which is the first business day after the 30th day from the date of this order. In the interest of allowing the Board to determine as expeditiously as possible whether to issue a first-notice opinion and order, the hearing officer will look with disfavor on future motions for leave to file a reply or to make other substantive additions to the record in this proceeding.

The "mailbox rule" at 35 Ill. Adm. Code 101.300(b)(2) does not apply either to the filing of the Agency's corrections or to any response to the post-hearing comments. The Clerk must receive these documents on or before the close of business on September 21, 2006, and on

October 9, 2006, respectively. Comments and other documents may be filed electronically through the Clerk's Office On-Line (COOL) from the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Timothy J. Fox', is written over a horizontal line.

Timothy J. Fox  
Hearing Officer  
Illinois Pollution Control Board  
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