

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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CLERK'S OFFICE

SEP 08 2006

STATE OF ILLINOIS
Pollution Control Board

A 106-55

County of Wayne,)	
)	
Complainant,)	
)	
vs.)	AC 191-06-06
)	
Mr. Julian Buchanan,)	
)	
Respondent.)	

NOTICE OF FILING

TO: KEVIN KAKAC
Wayne County, Illinois, State's Attorney
P. O. Box 641
Fairfield, IL 62837

PLEASE TAKE NOTICE that I have filed, with the office of the Clerk of the Illinois Pollution Control Board, a Motion for Reconsideration, on behalf of JULIAN BUCHANAN, Respondent, a copy of which is herewith served upon you.

JULIAN BUCHANAN, Respondent

BY: LAW OFFICE OF
MICHAEL J. MOLT, LTD.
Attorney for Respondent

BY: *Michael J. Molt*
MICHAEL J. MOLT

DATED this 7th day of September, 2006

LAW OFFICE OF
MICHAEL J. MOLT, LTD.
Attorney for Respondent
P. O. Box 652
Fairfield, IL 62837
Telephone: 618/842-4080

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon KEVIN KAKAC, Wayne County, Illinois, State's Attorney, by enclosing the same in an envelope addressed to such person at his address as disclosed by the pleadings of record herein, with postage fully prepaid and by depositing said envelope in a U.S. Post Office mail box in Fairfield, Illinois, on the 7th day of September, 2006.

Michael J. Malt

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

County of Wayne,)
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 Complainant,)
)
 vs.)
)
 Mr. Julian Buchanan,)
)
 Respondent.)

Accl-55

AC 191-06-06

MOTION FOR RECONSIDERATION

Now comes JULIAN BUCHANAN, Respondent, by his attorney, the LAW OFFICE OF MICHAEL J. MOLT, LTD., and for his Motion for Reconsideration, states the following:

1. Respondent, JULIAN BUCHANAN, received notice of the Administrative Citation in the above captioned case when he received a copy of said Administrative Citation by certified mail, return receipt requested on June 17, 2006. The file for this case with the Illinois Pollution Control Board should reflect that JULIAN BUCHANAN received the Administrative Citation on June 17, 2006.
2. If the Respondent elects to contest the Administrative Citation the Illinois Pollution Control Board rules and the Illinois Administrative Code provide that the Petition for Review must be filed within 35 days of the date of service of the Citation on the Respondent.
3. Thirty-five days from June 17, 2006, was July 22, 2006.
4. July 22, 2006 was a Saturday.

5. The Illinois Administrative Code and Rules of the Illinois Pollution Control Board provide that when a pleading is due on Saturday that said pleading may be filed on the next business day which would be Monday if said Monday is not a holiday.

6. The next business day after Saturday July 22, 2006, was Monday July 24, 2006.

7. Respondent's Attorney the LAW OFFICE OF MICHAEL J. MOLT, LTD. received copies of a Notice of Filing, Appearance, Petition for Review, and Certificate of Service showing that the Clerk's Office for the State of Illinois Pollution Control Board received the original of all of said documents on July 24, 2006.

8. The Petition for Review from JULIAN BUCHANAN, Respondent, which was by Rule and pursuant to previous decisions of the Illinois Pollution Control Board actually due on Monday July 24, 2006, was in fact physically received by the Illinois Pollution Control Board on said date, being July 24, 2006, and; therefore, was filed timely.

9. The Illinois Pollution Control Board issued an Opinion and Order of the Board on August 4, 2006 which found that the Board received the Petition (Petition for Review) in this case on July 24, 2006. The Order found that said document was delivered by Federal Express and that since it was not sent by and delivered by the U. S. Mail to the Office of the Clerk of the Illinois Pollution Control Board it was not considered filed timely.

10. Since the documents were actually physically received by the Illinois Pollution Control Board on July 24, 2006, which was the due date of said documents, the fact that the documents were delivered by Federal Express and not by the U. S. Mail

should not be an issue and the filing of the Petition for Review should be considered timely.

WHEREFORE, JULIAN BUCHANAN, Respondent, respectfully requests the Illinois Pollution Control Board to Reconsider its decision of August 4, 2006 and to enter an Order finding that the Petition for Review was timely filed and allowing the Illinois Pollution Control Board to consider the case of County of Wayne vs. JULIAN BUCHANAN on its merits and not rule against JULIAN BUCHANAN finding that the Respondent was in default for failure to timely file these pleadings.

JULIAN BUCHANAN, Respondent

BY: LAW OFFICE OF
MICHAEL J. MOLT, LTD.
Attorney for Respondent

BY: 
MICHAEL J. MOLT

LAW OFFICE OF
MICHAEL J. MOLT, LTD.
Attorney for Respondent
P. O. Box 652
Fairfield, IL 62837
Telephone: 618/842-4080

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Complainant,)	
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vs.)	AC 191-06-06
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Mr. Julian Buchanan,)	
)	
Respondent.)	

CERTIFICATE OF SERVICE

I hereby certify that I did, on the 7th day of September, 2006, send, by U. S. mail, with postage fully pre-paid, by depositing in the United States Post Office box in Fairfield, Illinois, a true and correct copy of a Motion for Reconsideration with said envelope addressed to KEVIN KAKAC, Wayne County Courthouse, P. O. Box 641, Fairfield, IL 62837, and the original and one copy of said Motion for Reconsideration on the same date by U. S. Express Mail with postage fully pre-paid, by depositing in the United States Post Office Box in Fairfield, Illinois the original and one copy of the Motion for Reconsideration addressed to: DOROTHY GUNN, Clerk, Pollution Control Board, James R. Thompson Center, 100 West Randolph Street, Suite 11-500, Chicago, IL 60601.

JULIAN BUCHANAN, Respondent

BY: LAW OFFICE OF
MICHAEL J. MOLT, LTD.
Attorney for Respondent

BY: 
MICHAEL J. MOLT

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon the KEVIN KAKAC, Wayne County, Illinois, State's Attorney, by enclosing the same in an envelope addressed to such person at his address as disclosed by the pleadings of record herein, with postage fully prepaid and by depositing said envelope in a U.S. Post Office mail box in Fairfield, Illinois, on the 7th day of SEPTEMBER 2006.

Michael J. Malt

LAW OFFICE OF
MICHAEL J. MOLT, LTD.
Attorney for Respondent
P. O. Box 652
Fairfield, Il 62837
Phone: 618/842-4080