

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

UNITED CITY OF YORKVILLE, A
MUNICIPAL CORPORATION,

Complainant,

v.

HAMMAN FARMS,,

Respondents.

PCB No. 08-96
(Enforcement-Land, Air, Water)

NOTICE OF FILING

TO: SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that on December 11, 2008, we electronically filed with the Clerk of the Illinois Pollution Control Board, Respondent's Motion for Leave to File a Reply in Support of its Motion to Dismiss Counts I and II as Duplicative, a copy of which is attached hereto and hereby served upon you.

Dated: December 11, 2008

Respectfully submitted,

On behalf of HAMMAN FARMS

/s/Charles F. Helsten

Charles F. Helsten
One of Its Attorneys

Charles F. Helsten
Nicola Nelson
Hinshaw & Culbertson LLP
100 Park Avenue
P.O. Box 1389
Rockford, IL 61105-1389
815-490-4900

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**RESPONDENT'S MOTION FOR LEAVE TO FILE A REPLY IN SUPPORT OF ITS
MOTION TO DISMISS COUNTS I AND II AS DUPLICATIVE**

NOW COMES the Respondent, HAMMAN FARMS, by and through its attorneys, Charles F. Helsten and HINSHAW & CULBERTSON LLP, pursuant to 35 Ill.Adm.Code 101.500(e), and hereby requests leave to file a Reply in Support of its Motion to Dismiss, responding to allegations in the Complainant's Response, stating as follows:

1. On November 17, 2008, Respondent Hamman Farms filed a Motion to Dismiss Counts I and II of Complainant City of Yorkville's Complaint as duplicative.
2. Respondent's Motion cited the duplicative enforcement action against Hamman Farms by the Attorney General, which alleges identical causes of action against Hamman Farms as those alleged in Yorkville's Complaint and which is currently pending in Kendall County Circuit Court.
3. In response to Respondent's Motion to Dismiss, Yorkville filed a brief in which it misrepresents the facts and the law. In the absence of the right to file a reply, Hamman Farms would suffer material prejudice.
4. Respondent has prepared a Reply which addresses the misrepresentations of Yorkville's Response, and by this motion seeks leave to file the Reply to avoid material prejudice to Respondent's case. A copy of the proposed Reply is attached hereto and filed

herewith.

WHEREFORE: Respondent, Hamman Farms, respectfully requests that the Board grant leave for Respondent to file its Reply in Support of its Motion to Dismiss.

Dated: December 11, 2008

Respectfully submitted,

On behalf of HAMMAN FARMS

/s/Charles F. Helsten

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AFFIDAVIT OF SERVICE

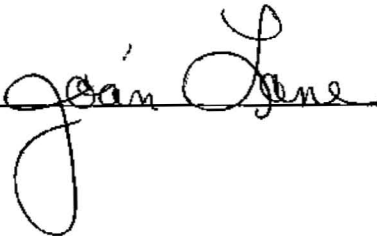
The undersigned, pursuant to the provisions of Section 1-109 of the Illinois Code of Civil Procedure, hereby under penalty of perjury under the laws of the United States of America, certifies that on December 11, 2008, she caused to be served a copy of the foregoing upon:

Mr. John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
100 W. Randolph, Suite 11-500
Chicago, IL 60601
(via electronic filing)

Thomas G. Gardiner
Michelle M. LaGrotta
GARDINER KOCH & WEISBERG
53 W. Jackson Blvd., Ste. 950
Chicago, IL 60604
tgardiner@gkw-law.com
mlagrotta@gkw-law.com

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 w. Randolph Street
Chicago, IL 60601
(via email: hallorab@ipcb.state.il.us)

Via electronic filing and/or e-mail delivery.

A handwritten signature in black ink, appearing to read "Jean Gene", is written over a horizontal line.

PCB No. 08-96
Charles F. Helsten
Nicola A. Nelson
HINSHAW & CULBERTSON
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P.O. Box 1389
Rockford, IL 61105-1389
(815) 490-4900