

ILLINOIS POLLUTION CONTROL BOARD

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SEP 14 2010

STATE OF ILLINOIS
Pollution Control Board

WILLIAM H. LEESMAN,)
)
 Complainant)
)
 v.)
)
 CIMCO RECYCLING, STERLING)
)
 &)
)
 CIMCO RESOURCES, INC.)
)
 Respondent(s))

11-1
 PCB xx-xxx
 (Enforcement-X)

ORIGINAL

To: John T. Therriault
 Assistant Clerk Illinois Pollution Control Board

RE: Illinois Pollution Control Board Notice dated September 02, 2010 (Copy enclosed)

Dear Mr. Therriault:

Per your request in the notice I received which was dated Sept. 02, 2010. Please find enclosed the original registered mail receipts for the service of the complaint that I filed with the Board in July of 2010.

I will retain copies for my records.

Sincerely,



William H. Leesman

P.O. Box 100

102 Galt Road

Galt, IL 61037

Dated September 07, 2010

RECEIVED
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SEP 14 2010

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD

September 2, 2010

WILLIAM H. LEESMAN,)	
)	
Complainant,)	
)	
v.)	PCB 11-1
)	(Citizens Enforcement - Air)
CIMCO RECYCLING, STERLING and)	
CIMCO RESOURCES, INC.,)	
)	
Respondents.)	

ORDER OF THE BOARD (by A.S. Moore):

On July 9, 2010, William H. Leesman (complainant) filed a complaint *pro se* against Cimco Recycling, Sterling, and Cimco Resources, Inc. (collectively, respondents). The complaint concerns noise and odor allegedly emitted from respondents' metal recycling facility located in Sterling, Whiteside County. As discussed below, the Board declines to accept the complaint for hearing at this time because the record does not demonstrate that complainant has properly served the complaint on respondents.

The Board's procedural rules require a complainant to serve the complaint on all respondents either personally, by registered or certified mail, or by messenger service. 35 Ill. Adm. Code 101.304(c), (d), 103.204(a). "Proof of service" of the complaint must be filed with the Board "upon completion of service." 35 Ill. Adm. Code 101.304(b). The procedural rules provide that "[p]roof of proper service is the responsibility of the party filing and serving the document." 35 Ill. Adm. Code 101.304(d). The Board notes the complaint was accompanied by a sworn certificate of service indicating that complainant served the complaint on respondents at specified addresses on July 7, 2010, by certified registered mail. See 35 Ill. Adm. Code 101, Appendix E, Illustration A (certificate of service by non-attorney).

However, the requisite proof that a complaint has been served by certified mail is the certified mail return receipt, executed by the respondent or its authorized agent. 35 Ill. Adm. Code 101.300(c); see Thigpen v. Morton Mobile Home Park, LLC, d/b/a Edgewood Terrace Mobile Home Park, PCB 08-12, slip op. at 2 (Sept. 6, 2007) (requiring "proof that service has been completed"); Trepanier v. Board of Trustees of the University of Illinois at Chicago, PCB 97-50, slip op. at 4 (Nov. 21, 1996) (service of complaint by certified mail requires return receipt signed by respondent or authorized agent). The record in this case lacks the required proof of service of the complaint.

Under these circumstances, the Board directs complainant to file with the Board proper proof that he has served the complaint on respondents or their authorized agent or agents. Complainant must file the proof by Monday, October 4, 2010, or the Board may dismiss this

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Return Receipt Fee (Endorsement Required)	2.30
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.32



Sent To Cinco Recycling Stealin
 Street, Apt. No. or PO Box No. T. WA Ashpole & Gray Ashpole P.O. Box 130
 City, State, ZIP+4 GALT IL 61037

PS Form 3800, June 2002 See Reverse for Instructions

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Certified Fee	2.80
Return Receipt Fee (Endorsement Required)	2.30
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.32



Sent To Cinco Resources, Inc
 Street, Apt. No. or PO Box No. 6801 Spring Creek Rd
 City, State, ZIP+4 Sub. 2c Rockford IL 61114

PS Form 3800, June 2002 See Reverse for Instructions