

ILLINOIS POLLUTION CONTROL BOARD
July 7, 2011

BEVERLY POWERS f/d/b/a)	
DICK'S SUPER SERVICE,)	
)	
Petitioner,)	
)	
v.)	PCB 11 - 63
)	(UST Appeal)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.K. Zalewski):

On March 28, 2011, Dick's Super Service (Dick's) filed a petition asking the Board to review a February 17, 2011 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2006); 35 Ill. Adm. Code 101.300(b), 105.402, 105.404. Dick's leaking underground storage tank (UST) site is located at 500 South Locust Street, Delevan, Tazewell County. On April 7, 2011, the Illinois Pollution Control Board (Board) accepted the petition for hearing and directed the Agency to file the entire recording of the proceedings.

On June 13, 2011, Beverly Powers filed a motion to substitute parties (Mot.) by adding her name as sole petitioner. The motion to substitute asserts that "Dick's Super Service" was a business held in joint tenancy, owned and operated by Dick and Beverly Powers. In other words, "Dick's Super Service" is a business name or "d/b/a" used by Dick and Beverly Powers. Dick Powers is deceased, with the result that Beverly Powers is now sole owner of the site by operation of law. The motion further asserts that the Agency pointed out that the filings since Mr. Powers' demise should properly have been made in Beverly Powers name. Mot. at 1.

The Agency has not filed a response to the motion to substitute, and is deemed to have waived objection to the grant of the motion. *See* 35 Ill. Adm. Code 101.500 (d).

The Board grants Beverly Powers' motion to substitute. The caption on this order reflects Beverly Powers as the sole petitioner, but also reflects that she was "f/d/b/a" as "Dick's Super Service" to enhance searchability of the case in the Board's "COOL" electronic docket system.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 7, 2011, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John Therriault, Assistant Clerk
Illinois Pollution Control Board