

**BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS**

CITY OF TAYLORVILLE/TAYLORVILLE,)
MUNICIPAL AIRPORT)
 Petitioner,)
 v.) PCB No. 12-57
ILLINOIS ENVIRONMENTAL) (UST Appeal)
PROTECTION AGENCY,)
 Respondent.)

NOTICE

John Therriault, Acting Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601

Greg Brotherton
Office of Mayor
Municipal Building
115 North Main Street
Taylorville, IL 62568-1944

PLEASE TAKE NOTICE that I have today filed with the office of the Clerk of the Pollution Control Board an APPEARANCE and a MOTION TO DISMISS, copies of which are herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,
Respondent

Melanie A. Jarvis
Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)
Dated: November 16, 2011

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OF THE STATE OF ILLINOIS**

CITY OF TAYLORVILLE/TAYLORVILLE,)	
MUNICIPAL AIRPORT)	
)	
Petitioner,)	
)	
v.)	PCB No. 12-57
ILLINOIS ENVIRONMENTAL)	(UST Appeal)
PROTECTION AGENCY,)	
)	
Respondent.)	

APPEARANCE

The undersigned, as one of its attorneys, hereby enters her Appearance on behalf of the Respondent, the Illinois Environmental Protection Agency.

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This filing submitted on recycled paper.

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MOTION TO DISMISS

NOW COMES the Respondent, the Illinois Environmental Protection Agency (“Illinois EPA”), by one of its attorneys, Melanie A. Jarvis, Assistant Counsel and Special Assistant Attorney General, and, pursuant to 35 Ill. Adm. Code 101.500, hereby respectfully moves the Illinois Pollution Control Board (“Board”) to dismiss the above action and in support of said motion, the Illinois EPA states as follows:

1. On October 18, 2011, Greg Brotherton, Mayor of the City of Taylorville, filed a Petition on behalf of the City of Taylorville/Taylorville Municipal Airport.
2. The website for the Attorney Registration and Disciplinary Commission does not show a Greg Brotherton registered as an attorney.
3. Board rules clearly state that the petition for review must be filed by an attorney. 35 Ill. Adm. Code 101.400(a)(2). The City of Taylorville surely has a city attorney, so they should be aware of the rule.
6. Any judgment in a case initiated by a non-attorney is void, even if subsequent appearances are made by an attorney. See, [Housing Authority of Cook County v. Tonsul, 115 Ill. App. 3d 739, 450 N.E.2d 1248 \(1st Dist. 1983\)](#); [Midwest Home Savings & Loan v. Ridgewood, 123 Ill. App. 3d 1001, 463 N.E.2d 909 \(5th Dist. 1984\)](#); [Marken Real Estate & Management Corporation v. Adams, 56 Ill. App. 3d](#)

[426, 371 N.E.2d 1192 \(1st Dist. 1977\); Leonard v. Walsh, 73 Ill. App. 2d 45, 220 N.E.2d 57 \(4th Dist. 1966\).](#)

CONCLUSION

For the reasons stated herein, the Illinois EPA respectfully requests that the Board grant the Illinois EPA's Motion to Dismiss.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent

Melanie A. Jarvis
Assistant Counsel
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CERTIFICATE OF SERVICE

I, the undersigned attorney at law, hereby certify that on November 16, 2011, I served true and correct copies of an APPEARANCE and MOTION TO DISMISS via the Board's COOL system and by placing true and correct copies thereof in properly sealed and addressed envelopes and by depositing said sealed envelopes in a U.S. Mail drop box located within Springfield, Illinois, with sufficient First Class postage affixed thereto, upon the following named persons:

John Therriault, Acting Clerk
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James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601

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