

ILLINOIS POLLUTION CONTROL BOARD

September 18, 1997

IN THE MATTER OF:)
)
PETITION OF RECYCLE) AS 97-9
TECHNOLOGIES, INC. FOR AN) (Adjusted Standard - RCRA)
ADJUSTED STANDARD FROM 35 ILL.)
ADM. CODE 720.131(c))

ORDER OF THE BOARD (by K.M. Hennessey):

On April 30, 1997, Recycle Technologies, Inc. (RTI) filed a petition for a solid waste determination under 35 Ill. Adm. Code 720.131(c) regarding filtered used antifreeze. On May 12, 1997, RTI filed a certificate of publication showing that notice of the petition was published on May 7, 1997. Because the petition was filed on behalf of RTI by its owner, Gary L. Gunderson, without indicating whether Mr. Gunderson was an attorney, the Board's order of July 10, 1997, required that RTI have an attorney file an appearance and an amended petition within 45 days.

On September 11, 1997, RTI, through an attorney, filed a "Petition for Leave to File, Instantly, an Amended Petition for Determining Whether a Material is a Solid Waste" (motion) and an "Amended Petition for Determining Whether a Material is a Solid Waste" (amended petition). RTI's attorney filed his appearance on September 16, 1997.

In its motion, RTI explains that it failed to file the amended petition within the Board's 45-day deadline because additional time was required "for Mr. Gunderson to comply with any and all concerns that were made known to him through the conversations he had with the Illinois Environmental Protection Agency." Mot. at 3. RTI also asserts that a representative of the Illinois Environmental Protection Agency (Agency) informed it that the Agency would not object to the relief sought by RTI in its original petition, but the Agency denies this assertion in its September 16, 1997 response to the motion. Nevertheless, the Agency states that it does not object to the filing of the amended petition.

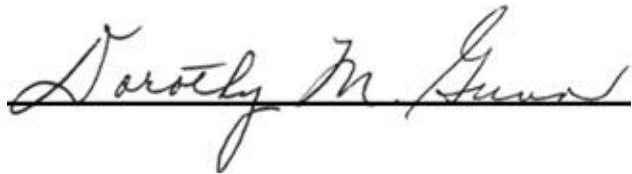
The Board grants the motion and accepts this matter for hearing. Pursuant to the Board's order of July 10, 1997, the Agency must file its response by October 16, 1997, and RTI may file a reply to the Agency's response within 14 days of its filing.

Pursuant to 35 Ill. Adm. Code 106.415(a), the Board must hold at least one public hearing prior to granting an adjusted standard. A hearing officer will be assigned to schedule and conduct the hearing after the Agency files its response. If the parties fail to agree on a hearing date, or the hearing officer is unable to consult with the parties regarding a hearing date, the hearing officer will unilaterally schedule a hearing.

The hearing officer must inform the Clerk of the Board of the time and location of the hearing at least 40 days in advance of hearing so that a 30-day public notice of the hearing may be published. After the hearing, the hearing officer must submit an exhibit list, a statement regarding the credibility of the witnesses, and all exhibits to the Board within five days of the hearing. The hearing officer also must set a schedule for the filing of any post-hearing briefs. The hearing officer and parties are encouraged to expedite this proceeding as much as possible.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 18th day of September 1997, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a solid horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board