

Message

**RECEIVED**  
CLERK'S OFFICE

JAN 27 2005

STATE OF ILLINOIS  
Pollution Control Board**Sharkey, Patricia F.**

**From:** Sharkey, Patricia F.  
**Sent:** Thursday, January 27, 2005 9:56 AM  
**To:** 'mblazer@enviroatty.com'  
**Subject:** RE: Pattermann v. Boughton

Mike--- I can't figure out what you are talking about. We emailed you our Response at 11:45 am yesterday. I am attaching the original email with the attached document containing our Response and the electronic email receipt showing that our email and the attachment were sent to your computer at 11:49 am. Our records also show that your system received our document at 11:49 am. We have no control over how your computer or the internet is working. It appears you may not have opened it until 8:40 pm. You have told me several times that you want documents sent to you by email. On your second point, we have a file stamped copy of our Response showing it was filed at the Board on January 26. We also have our docket department's receipt showing that it was filed at approximately 12:15 pm. It was also faxed to Mr. Halloran at approximately 11:45 am on the 26th. In case you are having difficulty with your email, I am also faxing this message to your office. - Pat

-----Original Message-----

**From:** Michael S. Blazer [mailto:mblazer@enviroatty.com]  
**Sent:** Thursday, January 27, 2005 3:17 AM  
**To:** Sharkey, Patricia F.  
**Subject:** RE: Pattermann v. Boughton

Pat:

The Hearing Officer directed that your Response and Objection to our Motion to Cancel was to be served by 1:00 p.m. on January 26. Contrary to the representation in the e-mail message header, it was not delivered until 8:44 p.m. I also note that, contrary to the representation in your Notice of Filing, your Response was not filed with the Board on January 26.

*Michael S. Blazer*

Principal

*The Jeff Diver Group, L.L.C.*

1749 S. Naperville Road

Suite 102

Wheaton, IL 60187

(630) 681-2530

Fax: (630) 690-2812

Mobil: (708) 404-9091

[mblazer@enviroatty.com](mailto:mblazer@enviroatty.com)

This e-mail is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521 and is legally privileged, including any attachments, contains information that is confidential, may be protected by the attorney/client or other applicable privileges, and may constitute non-public information. This message is intended to be conveyed only to the designated recipient(s). If you are not the intended recipient of this message, please immediately notify the sender that you have received this message in error and delete this message. Unauthorized use, disclosure, dissemination, distribution or reproduction of this message or the information contained in this message or the taking of any action in reliance on it is strictly prohibited and may be unlawful. Thank you for your cooperation.

-----Original Message-----

**From:** Draper, Donna [mailto:DDraper@mayerbrownrowe.com] **On Behalf Of** Sharkey, Patricia F.  
**Sent:** Wednesday, January 26, 2005 11:49 AM  
**To:** mblazer@enviroatty.com  
**Subject:** Pattermann v. Boughton

1/27/2005

**Sharkey, Patricia F.**

---

**From:** Draper, Donna  
**Sent:** Thursday, January 27, 2005 9:40 AM  
**To:** Sharkey, Patricia F.  
**Subject:** FW: Pattermann v. Boughton

-----Original Message-----

**From:** Draper, Donna **On Behalf Of** Sharkey, Patricia F.  
**Sent:** Wednesday, January 26, 2005 11:49 AM  
**To:** 'mblazer@enviroatty.com'  
**Subject:** Pattermann v. Boughton



Response.PDF (841  
KB)

Donna Draper  
Legal Secretary  
Mayer, Brown, Rowe & Maw LLP  
190 South LaSalle Street  
Chicago, Illinois 60603  
312-701-7600  
ddraper@mayerbrownrowe.com

**Draper, Donna**

---

**From:** Mail Delivery Subsystem [MAILER-DAEMON@mail02.mayerbrownrowe.com]  
**Sent:** Wednesday, January 26, 2005 8:40 PM  
**To:** Draper, Donna  
**Subject:** Return receipt



ATT169016.txt (428 B)    ATT169016.txt (1 KB)

The original message was received at Wed, 26 Jan 2005 11:45:08 -

0600  
from [143.58.241.78]

----- The following addresses had successful delivery notifications -----  
<mblazer@enviroatty.com> (relayed to non-DSN-aware mailer)

----- Transcript of session follows -----  
<mblazer@enviroatty.com>... relayed; expect no further notifications

**BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD**

**RECEIVED**  
CLERK'S OFFICE

**JAN 26 2005**

**STATE OF ILLINOIS  
Pollution Control Board**

GINA PATTERMANN,	)	
	)	
Complainant,	)	PCB 99-187
	)	
v:	)	(Citizen Enforcement -
	)	Noise, Air)
BOUGHTON TRUCKING AND	)	
MATERIALS, INC.,	)	
	)	
Respondent.	)	

**NOTICE OF FILING**

**TO: See Attached Certificate of Service**

Please take notice that on January 26, 2005, I filed with the Illinois Pollution Control Board an original and four copies of this Notice of Filing and the attached BOUGHTON'S RESPONSE AND OBJECTION TO COMPLAINANT'S MOTION TO CANCEL HEARING, copies of which are attached hereto and hereby served upon you.

**Dated: January 26, 2005**

**BOUGHTON TRUCKING AND MATERIALS, INC.**

By: 

One of its Attorneys

Patricia F. Sharkey  
Mark R. Ter Molen  
Kevin Desharnais  
Michelle Gale  
Mayer, Brown, Rowe & Maw LLP  
190 South LaSalle Street  
Chicago, Illinois 60603-3441  
(312) 782-0600

BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD

**RECEIVED**  
CLERK'S OFFICE

JAN 26 2005

STATE OF ILLINOIS  
Pollution Control Board

GINA PATTERMANN,	)	
	)	
Complainant,	)	PCB 99-187
	)	
v.	)	(Citizen Enforcement -
	)	Noise, Air)
BOUGHTON TRUCKING AND	)	
MATERIALS, INC.,	)	
	)	
Respondent.	)	

**BOUGHTON'S RESPONSE AND OBJECTION TO  
COMPLAINANT'S MOTION TO CANCEL HEARING**

NOW COMES Respondent, Boughton Trucking and Materials, Inc. ("Boughton"), by its attorneys, Mayer, Brown, Rowe & Maw LLP pursuant to 35 Ill. Admin. Code 101.500(d) and an oral agreement with the Hearing Officer made on January 25, 2005 to file an expedited response, and responds to Complainant's Motion To Cancel Hearing.

**COMPLAINANT FAILED TO FILE A TIMELY MOTION  
TO CANCEL THE SCHEDULED HEARING**

After five and a half years of litigation and a multitude of discovery abuses, Complainant's filing of a Section 5/2-1009 motion to dismiss without prejudice eleven days before the rescheduled hearing date is an abuse of the Board's procedures and highly prejudicial to Respondent. As Complainant failed to file its Motion to Cancel Hearing until seven days before the scheduled hearing date, the motion is not timely. Board rules do not allow untimely cancellation of a hearing as of right. Board Rule 101.510 allows the Board or the Hearing Officer to exercise discretion to grant a motion after the prescribed time; however, that authority is limited to instances in which the movant "demonstrates that the movant will suffer material

**Mayer, Brown, Rowe & Maw LLP**190 South La Salle Street  
Chicago, Illinois 60603-3441Main phone: (312) 782-0600  
Main fax: (312) 701-7711

MAYER
BROWN
ROWE
& MAW

**FACSIMILE COVER SHEET**

<b>FROM:</b>	Patricia F. Sharkey	<b>Date/time:</b>	Wednesday, January 26, 2005 11:43:20 AM
<b>Direct Tel:</b>	(312) 701-7952	<b>Pages:</b>	09
<b>Direct Fax:</b>	(312)706-9113		ALL PAGES MUST BE NUMBERED

**TO THE FOLLOWING:**

Name	Company	Fax #	Telephone #
Bradley L. Halloran	IPCB	814-3669	814-8917

**MESSAGE:**

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS BY MAIL. THANK YOU.

IF YOU HAVE ANY TRANSMISSION DIFFICULTY,  
PLEASE CONTACT THE FACSIMILE DEPARTMENT AT (312) 701-7981

Brussels Charlotte Chicago Cologne Frankfurt Houston London Los Angeles Manchester New York Palo Alto Paris Washington, D.C.  
Independent Mexico City Correspondent: Jauregui, Navarrete, Nader y Rojas, S.C.

Mayer, Brown, Rowe & Maw LLP operates in combination with our associated English limited liability partnership in the offices listed above.

User ID: PS008602

=====

TO: Name: Bradley L. Halloran

Company: IPCB

Fax Phone Number: 814-3669

Contact Phone Number: 814-8917

Info Code 1: 99556862

Info Code 2:

Sent to remote ID:1

Sent at:Wed Jan 26 11:44:35 2005

Sent on channel 17

Elapsed Time: 3 minutes, 8 seconds

Transmission Status (0/339;0/0): Successful Send

Page Record: 1 - 9.

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JAN 27 2005

## Mayer, Brown, Rowe &amp; Maw LLP

190 South La Salle Street  
Chicago, Illinois 60603-3441Main phone: (312) 782-0600  
Main fax: (312) 701-7711STATE OF ILLINOIS  
Pollution Control BoardB R O W N  
R O W E  
& M A W

## FACSIMILE COVER SHEET

FROM:	Patricia F. Sharkey	Date/time:	Thursday, January 27, 2005 10:05:24 AM
Direct Tel:	(312) 701-7952	Pages:	08
Direct Fax:	(312) 706-9113		ALL PAGES MUST BE NUMBERED

## TO THE FOLLOWING:

Name	Company	Fax #	Telephone #
Bradley L. Halloran	IPCB	814-3669	814-8917

## MESSAGE:

Mr. Halloran,

Please see the attached documentation in response to Mr. Blazer's  
allegations of this morning.

Patricia Sharkey

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS BY MAIL. THANK YOU.

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Independent Mexico City Correspondent: Jauregui, Navarrete, Nader y Rojas, S.C.

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