

RECEIVED
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

OCT 14 2003

ROCK ROAD COMPANIES, INC.,)
)
Petitioner,)
)
v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

STATE OF ILLINOIS
Pollution Control Board

PCB No. 2005-54
(Permit Appeal- Air)

NOTICE

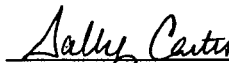
To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
100 West Randolph
Suite 11-500
Chicago, Illinois 60601

Harvey M. Sheldon
Hinshaw & Culbertson
222 North LaSalle Street
Chicago, IL 60601

Please take notice that I have today filed with the Office of the Clerk of the Pollution Control Board an original (1) and nine (9) copies of an Appearance and Motion for Extension of Time to File Record a copy of which is herewith served upon the attorney for the Petitioner, Rock Road Companies, Inc.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,



Sally Carter
Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel

Date: October 14, 2004
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
217/782-5544

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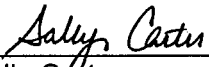
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APPEARANCE

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

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,



Sally Carter
Assistant Counsel
Special Assistant Attorney General
Division of Legal Counsel

Date: October 14, 2004
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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ROCK ROAD COMPANIES, INC.

Petitioner,

vs.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

STATE OF ILLINOIS
Pollution Control Board

NO. 05-54
PERMIT APPEAL

MOTION FOR EXTENSION OF TIME TO FILE RECORD

NOW COMES the Respondent, Illinois Environmental Protection Agency, ("Illinois EPA" or "Agency"), by one of its attorneys, Sally Carter, Assistant Counsel and Special Assistant Attorney General, and, pursuant to Sections 101.500, 101.522 and 105.116 of the Illinois Pollution Control Board's ("Board") procedural rules, 35 Ill. Adm. Code 101.500, 101.522 and 105.116, hereby respectfully requests that the Illinois Pollution Control Board ("Board") waive the normal filing requirements of 35 Ill. Adm. Code 105.116 and grant the Illinois EPA an extension of time within which to file the record of its decision. In support of this Motion, the Illinois EPA states as follows:

1. The Petitioner filed its Petition for Review of Permit Conditions on September 16, 2004. Pursuant to 35 Ill. Adm. Code 105.116, the Illinois EPA must file with the Board, the entire record of its determination within 30 days after the filing of the Petition unless the Board or hearing officer sets a different filing date. On October 7, 2004, the Board accepted the Petition for hearing and stated that the Agency must file the entire record of its decision by October 16, 2004.

2. In the time since the filing of the Petition, the Illinois EPA received service of the Petition on September 20, 2004. The Illinois EPA has been drafting a Motion to Dismiss due to the Board's lack of jurisdiction to hear the instant Petition. Pursuant to 101.506 of the Board's procedural rules, 35 Ill. Adm. Code 101.506, a motion to dismiss any pleading must be filed within 30 days after the service of the challenged filing.

Accordingly, the Illinois EPA's Motion to Dismiss must be filed on or before October 20, 2004.

3. Due to the Illinois EPA's pending Motion to Dismiss, the Illinois EPA requests that it not be forced to expend potentially unnecessary resources to file the record with the Board at this time. In the event that the Agency's Motion to Dismiss is granted, the Board will not require the record in this proceeding. Accordingly, the Illinois EPA requests that it not be forced to expend time and resources on a filing that may never be employed by the Board in making its ultimate decision.

4. No hearing date has been set in this matter.

5. Regardless, the Illinois EPA seeks only a very limited period of time by which to file its record. In the event the Board denies the Agency's Motion to Dismiss, the Illinois EPA requests fourteen (14) days after the denial to file its entire record of decision.

WHEREFORE, for the reasons stated above, the Illinois EPA hereby respectfully requests that the Board grant the Illinois EPA an extension of time to file the record until the Board rules on its Motion to Dismiss.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondent



Sally Carter

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
Dated: October 14, 2004

CERTIFICATE OF SERVICE

I hereby certify that I did on the 14th day of October 2004, send by First Class Mail, with postage thereon fully paid and deposited into the possession of the United States Postal Service, one (1) original and nine (9) copies of the following instruments entitled NOTICE, APPEARANCE and MOTION FOR EXTENSION OF TIME TO FILE RECORD to:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
100 West Randolph
Suite 11-500
Chicago, Illinois 60601

and a true and correct copy of the same foregoing instruments, by First Class Mail with postage thereon fully paid and deposited into the possession of the United States Postal Service, to:

Harvey M. Sheldon
Hinshaw & Culbertson LLP
222 North LaSalle Street
Chicago, IL 60601

Sally Carter

SALLY CARTER
Assistant Counsel
Special Assistant Attorney General

This filing is submitted on recycled paper.