

ILLINOIS POLLUTION CONTROL BOARD

October 7, 1999

THE BURLINGTON NORTHERN AND SANTA FE	)	
RAILWAY COMPANY,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 00-56
	)	(UST - Appeal)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	
	)	
Respondent.	)	
	)	

ORDER OF THE BOARD (by C.A. Manning):

This petition for review, filed on September 24, 1999, requests that the Board review a September 1, 1999 Illinois Environmental Protection Agency (Agency) final determination regarding petitioner's facility located at 5750 West 31st Street, Cicero, Cook County, Illinois. The Board accepts this matter for hearing.

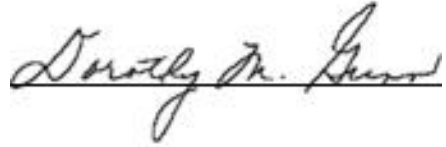
This petition was filed on petitioner's behalf by a consulting firm, ThermoRetec Corporation. Although the Board's current procedural rules would allow the petitioner to be represented by a non-attorney (see 35 Ill. Adm. Code 101.107(a)(2)), the Board recently held that these rules violated the provisions of the Attorney Act (705 ILCS 205/1 (1998)) and the Corporation Practice of Law Prohibition Act (705 ILCS 220/1 (1998)). In re Petition of Recycle Technologies, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 720.131(c) (July 10, 1997), AS 97-9. Specifically, the Board found that a nonattorney could not represent a corporation in an adjusted standard proceeding without violating both the Attorney Act and the Corporation Practice of Law Prohibition Act. The Board has also held that a nonattorney could not represent a not-for-profit corporation in a landfill siting appeal pursuant to Section 40.1(b) of the Act (415 ILCS 5/40.1(b) (1998)). Sierra Club v. Jim Bensman (October 2, 1997), PCB 98-43. The Board believes that the rationale employed to find that a nonattorney was prohibited from representing a corporation in an adjusted standard proceeding or in a landfill siting appeal applies equally to the situation presented in this matter. Accordingly, petitioner must be represented by an attorney. The Board grants petitioner 30 days in which to retain an attorney and for that attorney to file an amended petition in this case on the petitioner's behalf. If the petitioner does not file an amended petition for review within this time period, including proof of service of the amended petition on the Agency, this matter will be dismissed, and the docket closed.

The 120-day statutory period in which the Board must render a final decision will begin running as of the date of the filing of the amended petition. Hearings shall be scheduled and completed in a timely manner pursuant to the applicable statutory decision deadline or as extended by waiver (see 415 ILCS 5/40(a)(2) (1998), 35 Ill. Adm. Code 101.105). Unless otherwise ordered by the hearing officer, the Agency shall file the record of its review in this matter within 14 days of notice of the petition. See 35 Ill. Adm. Code 105.102.

IT IS SO ORDERED.

Board Member G.T. Girard dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 7th day of October 1999 by a vote of 5-1.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written in black ink. The signature is positioned above a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board