

ILLINOIS POLLUTION CONTROL BOARD
October 21, 1999

BEELMAN TRUCK COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 00-28
)	(UST - Appeal)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Respondent.)	
)	

ORDER OF THE BOARD (by R.C. Flemal):

On August 16, 1999, the Illinois Environmental Protection Agency (Agency) and petitioner filed a request for extension of the 35-day appeal period pursuant to Section 40 of the Environmental Protection Act (Act) (415 ILCS 5/40(a)(1) (1998)), relating to a July 8, 1999 Agency determination. On October 12, 1999, the Board received petitioner's petition for review. The final determination concerns petitioner's site in Madison County, Illinois. The Board accepts this matter for hearing.

The Board's rules require that the Agency file the entire Agency record of the permit application within 14 days of notice of the petition. See 35 Ill. Adm. Code 105.102. Hearing must be scheduled and completed in a timely manner, pursuant to the applicable statutory decision deadline, or the decision deadline as extended by a waiver. See 35 Ill. Adm. Code 101.105.

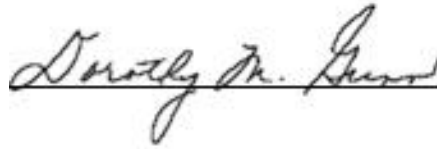
This petition was filed on petitioner's behalf by a consulting firm, KAM Solutions. Although the Board's current procedural rules would allow the petitioner to be represented by a non-attorney (see 35 Ill. Adm. Code 101.107(a)(2)), the Board recently held that these rules violated the provisions of the Attorney Act (705 ILCS 205/1 (1998)) and the Corporation Practice of Law Prohibition Act (705 ILCS 220/1 (1998)). See 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 non-attorney 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 non-attorney 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 non-attorney 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.

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 21st day of October 1999 by a vote of 5-1.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board