## ILLINOIS POLLUTION CONTROL BOARD May 21, 1998

JACK DONELSON SALES COMPANY,	)	
Petitioner,	)	
V.	)	PCB 98-118
	)	(UST - Appeal)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	
Respondent.	)	
ivespondent.	,	

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

On March 17, 1998, the Illinois Environmental Protection Agency (Agency) and the Jack Donelson Sales Company (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) (1996)), relating to a February 9, 1998, Agency determination. On May 13, 1998, petitioner filed a petition for review.

This petition was filed on petitioner's behalf by a consulting firm, World Water Consultants, Inc. 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 (1996)) and the Corporation Practice of Law Prohibition Act (705 ILCS 220/1 (1996)). See In the Matter of: Petition of Recycle Technologies, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 720.131(c) (July 10, 1997), AS 97-9 (hereinafter RTI). 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) (1996)). Sierra Club and Jim Bensman (October 2, 1997), PCB 98-43 (hereinafter Bensman). 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.

Rather than dismissing this appeal immediately as some case law would suggest, the Board finds that special circumstances of the type also found in <u>RTI</u> and <u>Bensman</u> apply here. Consistent with <u>RTI</u> and <u>Bensman</u>, 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 an amended petition and attorney's appearance are not filed on or before June 20, 1998, this action will be dismissed.

The Board will consider this petition timely filed consistent with the Board's April 2, 1998 order (as it was mailed on May 11, 1998). The Board's decision deadline under Section 40 of the Act (415 ILCS 5/40 (1996)) will restart with the filing of an amended petition.

## IT IS SO ORDERED.

Board Members G.T. Girard and J. Theodore Meyer 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 May 1998 by a vote of 5-2.

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board

Dorothy Mr. Guns

<sup>&</sup>lt;sup>1</sup> The Board's order of April 2, 1998, stated that the petition would be due "on or before May 10, 1998" (the 90th day after February 9, 1998, the date of the Agency decision). Because May 10 is a Sunday, the appeal was due on the next business day, Monday, May 11, 1998.