

ILLINOIS POLLUTION CONTROL BOARD
June 2, 1994

BTL SPECIALTY RESINS)
CORPORATION,)
)
Petitioner,)
)
v.) PCB 94-160
) (Permit Appeal)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD:

On May 26, 1994, BTL Specialty Resins Corporation (BTL) filed a petition captioned "Petition for Review of Final Hazardous Waste Determination". The petition concerns operations at BTL's plant located in Blue Island, Cook County, Illinois. BTL seeks to appeal "the April 26, 1994 decision of the Illinois Environmental Protection Agency [Agency] determining that certain material produced by BTL is a hazardous waste under category K022".

The Board questions whether this "appeal" is properly before the Board. The petition cites no section of the Act or Board regulation as providing the jurisdictional basis for this appeal. The only regulation cited in this petition is Section 721.132 "Hazardous Waste from Specific Sources". This rule does not by its terms provide for this type of appeal. It states:

The following solid wastes are listed hazardous waste from specific sources unless they are excluded under 35 Ill. Adm. Code 720.120 and 720.122 and listed in Section 721.Appendix I.

This introductory sentence is followed by a list of chemical waste numbers, including K002.

The sections cited in Section 721.132, above are each sections which prescribe procedural mechanisms for waste delisting by action of the Board. Section 720.120 "Rulemaking" specifies how persons may petition the Board for various amendments to its rules. Section 720.122 "Waste Delisting" provides procedures for obtaining a waste delisting in an adjudicatory procedure. Nowhere is the appeal route which petitioner seeks to employ specifically authorized in this rule.

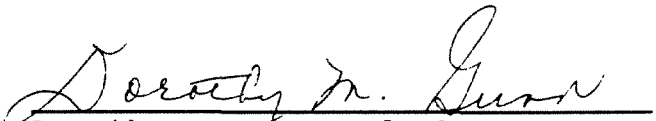
If an amended petition setting forth the jurisdictional basis

for this "appeal" is not filed within 21 days of the date of this order, this petition will be subject to dismissal.

The Board additionally notes that this petition is accompanied by a "waiver of requirement for Agency or Board to take action in response to its appeal" until August 17, 1994. The purpose of this purported waiver is to allow BTL and the Agency to negotiate settlement. Until the jurisdictional basis for this appeal is established, the Board does not consider that the Board or the Agency are required to take any actions by any particular dates.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 2nd day of June, 1994, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board