

ILLINOIS POLLUTION CONTROL BOARD
September 6, 2007

LORETTA THIGPEN,)	
)	
Complainant,)	
)	
v.)	PCB 08-12
)	(Citizens Enforcement – PWS)
MORTON MOBILE HOME PARK, LLC,)	
d/b/a EDGEWOOD TERRACE MOBILE)	
HOME PARK,)	
)	
Respondent.)	

ORDER OF THE BOARD (by N.J. Melas):

On July 30, 2007, Loretta Thigpen filed a complaint (Comp.) against Morton Mobile Home Park, LLC, an Illinois limited liability company, d/b/a Edgewood Terrace Mobile Home Park (Mobile Home Park). See 415 ILCS 5/31(d) (2006); 35 Ill. Adm. Code 103.204. In her 3-count complaint, Loretta Thigpen alleges that she resides in Edgewood Terrace Mobile Home Park operated by respondent, and receives her drinking water from the public water supply also operated there by respondent. Complainant Thigpen alleges that, in 2006-2007, respondent Mobile Home Park delivered drinking water containing arsenic in excess of the maximum contaminant level, and failed to make required notification of the exceedences in violation of Section 18 of the Environmental Protection Act (Act) (415 ILCS 5/18 (2006)) and Sections 611.121(a), 611.301(b) and 611.903 of the Board’s public water supply regulations. 35 Ill. Adm. Code 611.121(a), 611.301(b) and 611.903. Edgewood Terrace Mobile Home Park is located in the Village of Morton, Tazewell County.

Section 31(d)(1) of the Act allows any person to file a complaint with the Board. 415 ILCS 5/31(d) (1) (2006). Section 31(d) (1) further provides that “[u]nless the Board determines that such complaint is duplicative or frivolous, it shall schedule a hearing.” *Id.*; see also 35 Ill. Adm. Code 103.212(a). A complaint is duplicative if it is “identical or substantially similar to one brought before the Board or another forum.” 35 Ill. Adm. Code 101.202. A complaint is frivolous if it requests “relief that the Board does not have the authority to grant” or “fails to state a cause of action upon which the Board can grant relief.” *Id.* Within 30 days after being served with a complaint, a respondent may file a motion alleging that the complaint is duplicative or frivolous. 35 Ill. Adm. Code 103.212(b). The Board has not received a motion from respondent. However, for the reasons stated below, the Board today reserves ruling on whether the complaint is frivolous or duplicative.

The Board’s procedural rules provide that “[p]roof of service of initial filings must be filed with the Board upon completion of service.” 35 Ill. Adm. Code 101.304(b). The rules further provide that “[p]roof of proper service is the responsibility of the party filing and serving

the document.” 35 Ill. Adm. Code 101.304(d). With the complaint, Loretta Thigpen’s attorney filed a certificate of service indicating that he sent the complaint by certified mail on July 30, 2007, to respondent’s registered agent. To date, the Board has not received proof that service has been completed.

Accordingly, the Board directs complainant to file a certified mail receipt or other proof of completion of service by Tuesday, October 9, 2007, which is the first business day after the 30th day from the date of this order. If complainant fails to file proof of service on or before that date, the Board may dismiss this proceeding. *See* 35 Ill. Adm. Code 101.304(d).

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 6, 2007, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish at the end.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board