

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB NO. 09-60
)	(Enforcement)
CROP PRODUCTION SERVICES,)	
a Delaware corporation,)	
Respondent.)	

JOINT RESPONSE TO BOARD QUESTIONS

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, and Respondent CROP PRODUCTION SERVICES, INC. (hereinafter collectively "the Parties") and provide this joint response to questions propounded by the Illinois Pollution Control Board ("Board") attached to the December 2, 2015 Hearing Officer Order entered in the instant matter, as follows.

Counsel for the Parties are committed to addressing the Board's questions regarding the status of this proceeding. Counsel for the Parties also acknowledge the Board's role in adjudicatory matters and the importance of maintaining an orderly docket. Counsel for the Parties note for the Board that this matter involves three sites that are, and have been, in various states of investigation and remediation over the past several years. Due to their locations and unique issues at each site as well as shifts in the Illinois Environmental Protection Agency programs involved, progress to resolve issues at each site has not been as expeditious as desired. Importantly, as noted below, confidential settlement discussions have been ongoing and Counsel have endeavored to keep the Board Hearing Officer thoroughly apprised

of the status while maintaining their respective obligations to ensure the confidentiality of settlement discussions. It is our hope that the information provided below satisfactorily addresses the Board's concerns.

1. What compliance issues still exist? Which issues have been settled?

Answer

The only remaining disputed issue for the entire matter concerns language regarding a technical requirement. This issue is whether the language can be narrowed.

2. What counts of the 2009 amended complaint impede resolution?

Answer

Please see the answer to Item 1 above. The single remaining disputed issue concerns language regarding a technical requirement pertinent to the Galesburg site.

3. Has a proposal been made to resolve the issue?

Answer

Yes. A proposal has been made. A counter proposal has been submitted. There have been discussions and submissions between technical personnel. An explanation was provided on December 21, 2015 by Complainant's counsel as to why the counter proposal cannot be accepted. The subject site, the Galesburg site, in resolution of this matter, has been shifted from oversight by Illinois EPA field personal to Illinois EPA sites remediation personnel. The sites remediation personnel are working under different program parameters and conduct a review of the ongoing work in a context that has yet to be established for the site. Therefore broader language is needed. This explanation has been transmitted to counsel for CPS for

review and response. Discussions have occurred nearly daily between Counsel for the Parties and their respective technical staffs.

4. What are the dates of the most recent three discussions.

Answer

12/21/2015, 12/18/2015, and 12/17/2015

5. Is a future meeting scheduled.

Answer

No. Discussions are most efficiently and effectively handled via email communications.

6. Can you provide an estimate of when settlement may be reached, or explain the reasons for any delay?

Answer

The Parties were fairly certain this matter could be resolved by the end of 2015. Due to the shift in program oversight, unexpected issues have surfaced. The Parties expect that a settlement will be achieved in the first quarter of 2016.

7. Provide a reasonable schedule for discovery and dispositive motions that both parties can agree on that leads to a hearing date for this action in 2016. If the Board finds that the schedule is acceptable, it may adopt the schedule with the aim of resolving this action in 2016.

Answer

April 30, 2016	All written discovery propounded
May 15, 2016	Deadline for responses to all outstanding written discovery
June 30, 2016	All depositions completed

September 1, 2016

Deadline for filing of dispositive motions

November, 2016

Hearing set on date in November 2016 as agreed
by the parties and Hearing Officer

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
Complainant

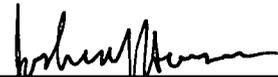
CROP PRODUCTION SERVICES
Respondent

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