

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. )  
)  
JERSEY SANITATION CORPORATION, )  
an Illinois corporation, )  
)  
Respondent. )

PCB NO. 97-2  
(Enforcement)

**RECEIVED**  
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**SEP 30 2004**  
STATE OF ILLINOIS  
Pollution Control Board

NOTICE OF FILING

To: Stephen F. Hedinger  
Attorney at Law  
2601 South Fifth Street  
Springfield, IL 62703


PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, OBJECTION TO RESPONDENT'S MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO MOTION FOR SANCTIONS, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN  
Attorney General of the  
State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY:   
JANE E. McBRIDE  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: September 27, 2004

**CERTIFICATE OF SERVICE**

I hereby certify that I did on September 27, 2004, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING and OBJECTION TO RESPONDENT'S MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO MOTION FOR SANCTIONS:

To: Mr. Stephen Hedinger  
Hedinger Law Office  
2601 South Fifth Street  
Springfield, Illinois 62703

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601

A copy was also sent by First Class Mail with postage thereon fully prepaid

To: Carol Sudman  
Hearing Officer  
Pollution Control Board  
1021 N. Grand Avenue East  
Springfield, Illinois 62794

  
Jane E. McBride  
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
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Complainant, )  
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JERSEY SANITATION CORPORATION, )  
an Illinois corporation, )  
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**OBJECTION TO RESPONDENT'S MOTION FOR EXTENSION OF TIME TO FILE  
RESPONSE TO MOTION FOR SANCTIONS**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, and hereby objects to Respondent's Motion for Extension of Time to File Response to Motion for Sanctions on the following grounds:

1. Respondent's motion for an extension of time exists as yet another tactic of delay and stalling in the instant matter. Respondent's motion for extension of time is six paragraphs long. If Respondent was sincere in its interest in responding to the motion for sanctions, it would have spent the time drafting an actual response instead of a request for an extension of time.
2. Respondent has done nothing but delay this proceeding. Respondent stands to benefit from this delay. Groundwater contamination is at issue in this matter. Respondent has already avoided, for many years, any costs associated with compliance measures the Board may order. Additional delay allows Respondent to continue to avoid costs of compliance despite undisputed evidence that the groundwater exceeds standards at the site.
3. Complainant is prejudiced by the continuing delay. The Complainant is forced to continue to invest resources in this proceeding due to the delay and never-ending continuances associated with this proceeding. The delay and the passage of time is not beneficial to an efficient proceeding. Complainant's counsel and witnesses have been forced to repeatedly

reacquaint themselves with the evidence and arguments that make up the voluminous record in this proceeding due to the delays that have been caused by the Respondent.

4. In paragraph 2 of its motion for extension of time, Respondent seeks to deflect attention from its own delay tactics with ridiculous accusations. It accuses Complainant of mischaracterizations. There is no truth in Respondent's statements. Respondent is the one guilty of mischaracterizations. Paragraph 2 of its motion represents a very sad, desperate attempt to confuse and mislead so as to remove the Board's focus from the fact Respondent has repeatedly failed to adhere to the Hearing Officer's order and has caused a significant, unnecessary delay in this proceeding.

5. Respondent claims that Complainant is trying to "inflict punishment" upon the Respondent. Complainant is appalled by this statement and suggests that the Board recognize such statements for what they are, rash mockeries of the process that should not be tolerated. Respondent should not be allowed to avoid abiding by a Hearing Officer's order on the grounds of rash, ridiculous statements.

6. Complainant is trying to proceed with an enforcement action and bring it to conclusion. Respondent is now 15 weeks, nearly four months, beyond its deadline for filing a response brief. The hearing in this matter was initiated over a year ago. The majority of the hearing was concluded on September 23 and 24 of 2003. The hearing was completed on January 13, 2004.

7. Among its rash statements is the Respondent's notion that the instant enforcement case is an attempt to "circumvent" a permit ruling. This is Respondent's characterization and it is indeed a hideous mischaracterization. Complainant has presented evidence of the exceedence of groundwater standards and has presented evidence from experts, both the Complainant's and Respondent's experts, as to recommended remedial

limit and set forth the grounds upon which it requested the waiver. Respondent filed no objection at the time, and thus has waived its ability to object. If it truly had an objection, it should have filed a timely objection so the matter could have been reviewed in a timely and appropriate manner within the proceeding. It has waived its objection and the page length should no longer be at issue. The allegations of this case are numerous, they existed and arose over a significant period of time, and the groundwater issues have been complicated by a number of factors. Complainant asserted that it needed the page-length waiver to adequately address the voluminous record and the many arguments set forth by both parties.

11. Respondent's counsel has requested an extension of time due to the fact he has other litigation obligations. All attorneys face work that competes for their time. However, the briefing schedule for this matter was originally set on January 13, 2004. Counsel cannot claim he was unaware of the record and the arguments in this case as of that date. He received Complainant's brief on approximately April 20, 2004. Respondent has had over four months within which to plan and secure time to get a response brief filed in this matter.

12. In Paragraph 2 of its motion, Respondent states that, with the filing of Complainant's request for sanctions, Complainant is "seeking" a "death penalty sanction" against Respondent. Respondent thoroughly indulges in hyperbole with this statement and again infers an intention on the part of the Complainant that is pure supposition. Respondent repeatedly failed to adhere to orders issued by the Hearing Officer and in the course of time exceeding 13 weeks, Respondent fell completely silent. Another two weeks has passed. Respondent still has not filed a response brief, and instead files for an extension of time to respond to the motion for sanctions. Respondent is staying true to its pattern and practice of delay, which, pursuant to Section 101.800(c) of the Board's Procedural Rules, constitutes grounds for sanctions.

WHEREFORE, on the foregoing grounds, Complainant respectfully requests that the Board deny Respondent's motion for extension of time, acknowledge Respondent's failure to adhere to the briefing schedule set in this matter by Hearing Officer order, and order the record in this matter closed.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
ex rel. LISA MADIGAN, Attorney General  
of the State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement Division

BY:



JANE E. MCBRIDE  
Assistant Attorney General

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