

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

SEP 14 2007

STATE OF ILLINOIS  
Pollution Control Board

VERNON and ELAINE ZOHFELD, )  
 )  
 Complainants, )  
 )  
 v. )  
 )  
 BOB DRAKE, WABASH VALLEY SERVICE )  
 COMPANY, MICHAEL J. PFISTER, )  
 NOAH D. HORTON, and STEVE KINDER, )  
 )  
 Respondents. )

PCB 05-0193  
(Citizen's Enforcement, Air)

**MOTION FOR VOLUNTARY DISMISSAL AS TO BOB DRAKE**

NOW COME Complainants, VERNON and ELAINE ZOHFELD, through their undersigned attorney, and move this Board to allow a voluntary dismissal of the Complaint in this case as to Respondent BOB DRAKE, as a result of the settlement of Complainants' claims against Respondent Bob Drake. In support of this Motion, Complainants state as follows:

1. Complainants filed their Complaint in this case in 2005, alleging that the Respondents, including Respondent Bob Drake, were responsible for airborne pesticide materials and other agricultural chemicals being transported across property boundaries from land owned at that time by Drake onto land owned by Complainants. The Complaint alleged both personal injuries and property damages as a result of the air pollution, resulting in loss of enjoyment by the Complainants of their property.

2. The Complaint requested that this Board order Respondents cease and desist from further violations of the Environmental Protection Act, and the associated air pollution regulations, assess penalties against the Respondents, award to Complainants costs and attorney's fees, and award all other relief available.

3. Subsequently Respondent Bob Drake has divested himself of ownership of the parcel of property from which the agrichemicals were transported onto Complainants' property.

4. In addition, Complainants have now entered into a monetary settlement with Respondent Bob Drake, by means of which the parties have determined to resolve their differences and pursue no further litigation against one another concerning the agrichemical overdrift at issue in this case, including prosecution of this citizens' enforcement action.

5. Consequently, in order to fulfill their requirements under the settlement agreement, Complainants at this time request that this Board dismiss this matter as it pertains to Respondent Bob Drake.

6. Counsel for the other Respondents have informed counsel for Complainants and counsel for Respondent Bob Drake that they have no objection to a dismissal as requested by Complainants herein.

7. Dismissal as to Respondent Bob Drake, in light of the settlement with Complainants, is in the interests of justice and the environment.

WHEREFORE Complainants, VERNON and ELAINE ZOHFELD, request that this Board dismiss this matter as to Respondent Bob Drake only.

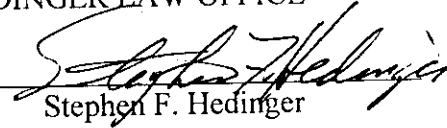
Respectfully submitted,

Vernon and Elaine Zohfeld,  
Complainants,

By their attorney,

HEDINGER LAW OFFICE

By

  
Stephen F. Hedinger

Hedinger Law Office  
2601 South Fifth Street  
Springfield, IL 62703  
(217) 523-2753 phone  
(217) 523-4366 fax

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

VERNON and ELAINE ZOHFELD, )  
)  
Complainants, )  
)  
v. )  
)  
BOB DRAKE, WABASH VALLEY SERVICE )  
COMPANY, MICHAEL J. PFISTER, )  
NOAH D. HORTON, and STEVE KINDER, )  
)  
Respondents. )

RECEIVED  
CLERK'S OFFICE

SEP 14 2007

PCB 05-193 STATE OF ILLINOIS  
(Enforcement, Air) Pollution Control Board

NOTICE OF FILING AND PROOF OF SERVICE

The undersigned certifies that an original and nine copies of the foregoing Motion for Voluntary Dismissal as to Bob Drake and of this Notice of Filing and Proof of Service, were served upon the Clerk of the Illinois Pollution Control Board, and one copy to each of the following parties of record in this cause by enclosing same in an envelope addressed to:

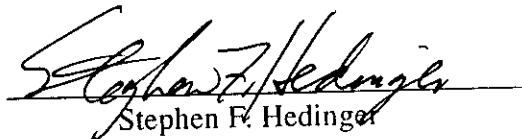
Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph St., Suite 11-500  
Chicago, IL 60601

Carol Webb, Esq., Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, IL 62794-9274

Thomas G. Safley  
Gale W. Newton  
HODGE DWYER ZEMAN  
3150 Roland Avenue  
P.O. Box 5776  
Springfield, IL 62705-5776

Thomas H. Bryan  
Fine & Hatfield, P.C.  
520 N.W. Second Street, P.O. Box 779  
Evansville, IN 47705-0779

with postage fully prepaid, and by depositing said envelope in a U.S. Post Office Mail Box in Springfield, Illinois before 5:30 p.m. on the ~~12th~~ day of September, 2007.

  
Stephen F. Hedinger

Hedinger Law Office  
2601 South Fifth Street  
Springfield, IL 62703  
(217) 523-2753 phone  
(217) 523-4366 fax

*This document prepared on recycled paper*