

ILLINOIS POLLUTION CONTROL BOARD

July 11, 2002

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| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB 01-144 |
| |) | (Enforcement – Public Water Supply) |
| RICH WILLIAMS d/b/a C.R. WILLIAMS & |) | |
| ASSOCIATES ARCHITECTS, |) | |
| |) | |
| Respondent. |) | |

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

On April 20, 2001, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against the City of Pana, the Housing Authority of Christian County (HACC), PrairieLand Construction, Inc. (PrairieLand), and Rich Williams, d/b/a C.R. Williams & Associates, Architects (Williams). *See* 415 ILCS 5/30(c)(1) (2000); 35 Ill. Adm. Code 103.204. Only the first count of the complaint concerned Williams. The People allege that Williams violated Sections 15(a) and 18(a) of the Environmental Protection Act (Act) (415 ILCS 5/15(a) and 5/18(a)(1), (a)(2), and (a)(3) (2000)); Sections 601.101(b), 602.101(b), and 607.104(b) of the Board's regulations (35 Ill. Adm. Code 601.101(b), 602.101(b), and 607.104(b)), and Section 653.119 of the Illinois Environmental Protection Agency's (Agency) regulations (35 Ill. Adm. Code 653.119 (a) and (b) (2001)). The People further allege that Williams violated these provisions by having direct supervisory control over the construction of water and sewer mains less than ten feet apart. The People alleged similar and additional violations of the Act, the Board's regulations, and the Agency's regulations against the other respondents. The complaint concerns the construction of a water main project at the Washington Court Housing Project in Pana, Christian County.

On July 10, 2001, the People and HACC filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2000)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2000)). *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Pana News-Palladium* on July 12, 2001. The Board received a timely request for hearing from PrairieLand on August 3, 2001. *See* 415 ILCS 5/31(c)(2) (2000).

On August 23, 2001, Respondent, PrairieLand Construction filed a cross-complaint against the City of Pana, the HACC, and Williams for contribution.

On November 19, 2001, the People and Pana filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act. The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Pana News-Palladium* on November 29, 2001. The Board received a timely request for hearing from PrairieLand on November 30, 2001.

On March 28, 2002, the People and PrairieLand filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act. The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Pana News-Palladium* on April 1, 2002.

On April 15, 2002, PrairieLand filed a motion to withdraw requests for hearing. Specifically, PrairieLand withdrew its requests for hearing in connection with the stipulations and settlements involving both HACC and Pana. On May 2, 2002, the Board issued an opinion and order accepting the stipulations and settlements involving the People and the City of Pana, HACC, and PrairieLand.

On June 3, 2002, the People and Williams filed a stipulation and proposed settlement, along with a request for relief from the hearing requirement of Section 31(c)(1) of the Act. The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Pana News-Palladium* on June 6, 2002.

Since the request for hearing has been withdrawn, and no further requests for hearing have been filed in connection with Williams' stipulation and settlement, the Board grants the Williams' requests for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2000); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. 35 Ill. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of Williams' operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act (415 ILCS 5/33(c) (2000)). Williams has satisfied Section 103.302. Williams does not affirmatively admit the alleged violations yet agrees to pay a civil penalty of \$7,000. The Board accepts the stipulation and proposed settlement. This resolves all issues as to all parties in this action, and the docket is closed.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Williams must pay a civil penalty of \$7,000. By August 10, 2002, which is the 30th day after the date of this order, Williams must make the first of seven monthly payments in equal installments of \$1,000 (one thousand dollars).
3. Williams must pay the civil penalties by certified checks or money orders, payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case numbers, case names, and Williams' federal employer identification number must be included on the certified checks or money orders.
4. Williams must send the certified checks or money orders to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Williams must simultaneously submit copies of the checks and payment transmittals to:

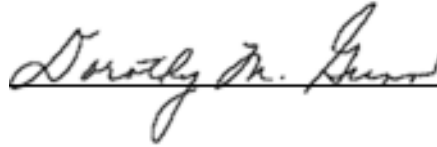
Donna Lutes
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706
5. If Williams fail to comply with any material requirement set forth in its stipulation and proposal for settlement, Williams shall pay in liquidated penalties the sum of \$500.00 per month of noncompliance, until such time as the requirements are complied with, said penalty to be paid to the Environmental Protection Trust Fund in the manner provided above.
6. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
7. Williams must cease and desist from the alleged violations.

8. This docket is closed.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2000); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 11, 2002, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board