

ILLINOIS POLLUTION CONTROL BOARD
September 23, 1999

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 93-191
) (Enforcement- UST)
LLOYD WIEMANN d/b/a WIEMANN ICE AND FUEL)
and CHERYL HALBROOKS,)
)
Respondents.)

LLOYD WIEMANN d/b/a WIEMANN ICE AND FUEL,)
)
Cross-Complainant,)
)
v.) PCB 93-191
) (Enforcement- UST)
TEXACO REFINING AND MARKETING, INC. and)
EUGENE AND CHERYL HALBROOKS,)
)
Cross-Respondents.)
)
)

ORDER OF THE BOARD (by C.A. Manning):

This matter comes before the Board on two motions. On August 10, 1999, the People of the State of Illinois (State) moved the Board for leave to file an amended complaint. The amended complaint adds Cheryl Halbrooks (C. Halbrooks) as a respondent and makes various allegations regarding her involvement with one of the underground storage tank sites in this case. The Board grants the State's motion. For purposes of deadlines to file any answer or responsive motion, the Board deems C. Halbrooks to have received the amended complaint as of the date of this order.

On July 12, 1999, C. Halbrooks moved the Board to dismiss the "action" that Lloyd Weimann d/b/a Weimann Ice and Fuel (Weimann) allegedly brought against her. Mot. to Dismiss at 9. The Board notes that its July 18, 1996 order granted Weimann's motion to join C. Halbrooks, Eugene Halbrooks (E. Halbrooks), and Texaco Refining and Marketing, Inc. (TRMI). On September 5, 1997, the State filed a "motion to clarify caption," in which it asserted that C. Halbrooks, E. Halbrooks, and TRMI were not respondents but rather "third-party respondents in an action commenced by Weimann." Mot. to Clarify at 3. Review of the record, however, reveals that Weimann has filed no such action. The ministerial step of amending the caption of this case did not change this fact. The Board denies C. Halbrooks' motion to dismiss because Weimann has filed no action against her.

To date, the State has filed no amended complaint against E. Halbrooks or TRMI. Nor has Weimann filed a cross-complaint against them or C. Halbrooks. The Board grants each party 45 days from the date of this order to file any complaint against any of the parties. If the Board does not timely receive any such filing against E. Halbrooks and TRMI, the Board, on its own motion, will dismiss them.

The Board notes that the State commenced this case against Weimann approximately six years ago. The Board joined TRMI, C. Halbrooks, and E. Halbrooks over three years ago. The parties have made numerous filings with the Board and engaged in discovery at length. The parties have pursued settlement over the years without

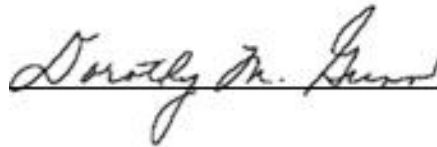
success. The Board directs the hearing officer to expeditiously schedule (1) deadlines for concluding discovery and filing dispositive motions and (2) a hearing.¹

ORDER

1. The Board grants the State's motion for leave to file an amended complaint.
2. The Board denies C. Halbrooks' motion to dismiss.
3. The Board grants each party 45 days from the date of this order to file any complaint against any of the parties.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 23rd day of September 1999 by a vote of 6-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

¹ While the Board recognizes that no cross-complaint has been filed, future pleadings in this case, for the time being, must reflect the caption of this order. Of course, the Board may change the caption in light of any future complaint or the lack thereof.