

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SUSAN M. BRUCE,)	
Complainant,)	PCB # 2015-139
v.)	(Citizens - Water Enforcement)
HIGHLAND HILLS SANITARY)	
DISTRICT,)	
Respondent.)	

NOTICE OF FILING

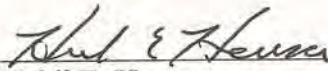
To: Susan M. Bruce
115 East 14th Place
Lombard, IL 60148

PLEASE TAKE NOTICE that I have today filed with the Pollution Control Board the following document:

MOTION TO DISMISS AMENDED COMPLAINT FOR WANT OF PROSECUTION

a copy of which is hereby served upon you.

Respectfully submitted,


Heidi E. Hanson

Dated: January 19, 2018

Joseph R. Podlewski Jr.
Heidi E. Hanson
Podlewski & Hanson P.C.
4721 Franklin Ave, Suite 1500
Western Springs, IL 60558-1720
(708) 784-0624

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SUSAN M. BRUCE)	
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Complainant,)	PCB # 2015-139
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HIGHLAND HILLS SANITARY)	
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MOTION TO DISMISS AMENDED COMPLAINT FOR WANT OF PROSECUTION

Respondent, HIGHLAND HILLS SANITARY DISTRICT (“District”), by and through its attorneys PODLEWSKI & HANSON P.C., respectfully requests, pursuant to 35 Ill. Adm. Code Section 101.500, that the Illinois Pollution Control Board (“Board”) dismiss the amended complaint with prejudice.

In support of this motion, the District states as follows:

1. This case, initially filed in January of 2015, involves Complainant’s allegation of flooding and sewer backups occurring at 115 E. 14th Place, Lombard, Illinois (“Lombard Address”) in 2010 and 2013.
2. On at least two occasions, Complainant’s own attorney stated that he could not reach her for an extended period of time. More recently, she has ignored multiple contacts by opposing counsel and has missed two consecutive telephonic status conferences.
3. The inability of attorneys (both her own and opposing counsel) to reach Mrs. Bruce at various times, has been documented in at least eight (8) Hearing Officer Orders: April, 5, 2016, May 4, 2017, June 6, 2017, June 27, 2017, July 6, 2017, July 24, 2017, December 18, 2017, and January 10, 2018.
4. The most recent substantive filing by Complainant was the June 17, 2016 Complainant's Responses to Respondent's First Request to Admit Facts. Her responses to motions that Respondent filed in August 2016 have been stayed by Hearing Officer orders for the past 16 months. Initially, the purpose of the stay was to provide time for settlement discussions. Those

discussions took place and as noted in the March 7, 2017 Hearing Officer Order, agreement was reached on the major issues. Respondent provided Mrs. Bruce's attorney with draft settlement agreements in May and July of 2017.

5. As set forth in the June 6, 2017, June 27, 2017, July 6, 2017 and July 24, 2017 Hearing Officer Orders in this case, Complainant's attorney, Larry Stein, represented that he was unable to reach Complainant from sometime prior to June 6, 2017 until July 24, 2017. As set forth in the July 24, 2017 Hearing Officer Order, Mr. Stein, represented that his client had finally contacted him and that "a settlement document will be executed soon."

6. On October 6, 2017, Mr. Stein's law firm filed a Notice of Withdrawal which they served on Mrs. Bruce at her Lombard Address and also at a Villa Park address. Since that time no other attorney has appeared for Complainant.

7. On October 30, 2017 and November 14, 2017 Mrs. Bruce, representing herself, participated in telephonic status conference calls with the Hearing Officer and Respondent's attorneys and provided her cell and landline phone numbers and her email address to Respondent's attorneys. She also represented that she wanted to receive mail regarding this matter at her Lombard Address even though she was no longer living there.

8. On October 30 and November 13, 2017 Respondent's attorneys had two phone calls with Mrs. Bruce during which she said she still wanted to settle the matter but insisted on changing several major settlement terms that had been agreed upon with her prior counsel. The Respondent sanitary district held a meeting to discuss her new demands, but Mrs. Bruce has not responded to any of Respondent's attorneys' attempts to contact her as set forth below:

a. On December 6, 2017 Respondent's attorney, Ms. Hanson, left voice mail messages at both of the phone numbers Mrs. Bruce had provided, asking Mrs. Bruce to contact her. Mrs. Bruce did not respond.

b. On December 13, 2017 Mrs. Bruce failed to appear for a telephonic status conference. (December 14, 2017 Hearing Officer Order.)

c. Also on December 13, 2017 Ms. Hanson left another voice mail message for Mrs. Bruce asking Mrs. Bruce to contact her. Mrs. Bruce did not respond.

d. On December 14, 2017 Ms. Hanson sent an email message to Mrs. Bruce at Sbruce294@gmail.com asking Mrs. Bruce to contact her. (Attachment 2.) Mrs. Bruce did not respond.

e. On December 30, 2017 Ms. Hanson sent letters to Mrs. Bruce asking Mrs. Bruce to contact her and also asking her to verify her contact information. The letters were sent to both her Lombard Address and the Villa Park address given in her attorney's Notice of Withdrawal. (Attachment 3.) Mrs. Bruce did not respond.

f. On January 9, 2018 Ms. Hanson sent Mrs. Bruce an email regarding the status conference call time. Mrs. Bruce did not respond and she also did not participate in the telephonic status conference. (Attachment 4.)

g. Also on January 9, 2018 the Hearing Officer requested and received Mrs. Bruce's contact information from Respondent's attorneys, and his January 10, 2018 Hearing Officer Order stated that he attempted to contact her by telephone and email and that she had not responded (at the time he wrote the order).

9. On January 10, 2018 the Hearing Officer sent an email to Respondent's attorneys stating that Mrs. Bruce had left him a voice mail message with her phone number. (See Attachment 5.) That phone number is the same one used by Respondent's attorneys to contact her and it was the same one provided to the Hearing Officer on January 9, 2018. The voice mail message demonstrates that the phone number is current and accurate, and that Mrs. Bruce is capable of responding to the Hearing Officer when she is inclined to do so. She continues to decline to contact Respondent's attorneys.

10. The January 10, 2018 Hearing Officer Order Certificate of Service indicates that at some point Mrs. Bruce agreed to accept electronic service and her email address is listed on Board's website Case Details page for this matter as Sbruce294@gmail.com, the same email address that Ms. Hanson had used to try to contact her on December 14, 2017 and January 9, 2018. The fact that Mrs. Bruce agreed to accept service at that email address demonstrates that the email address is current and accurate and that email sent to that address should have reached her.

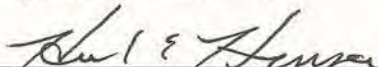
11. As of the date of this motion Mrs. Bruce has still not responded to Respondent's attorney's multiple attempts to get in contact with her. Her last contact with Respondent's attorneys took place during the status conference on November 14, 2017. She has ignored multiple phone calls, emails, letters, Hearing Officer orders, and has missed two consecutive telephonic status conferences. On information and belief, she has not provided any explanation of her failure to appear at the Hearing Officer conferences.

12. Her pattern of failure to make herself available to move this matter forward, occurring during at least three periods of time, (in April 2016, in June to July of 2017, and in December 2017 to January 2018) demonstrates a lack of interest in pursuing her claim and a callous disregard for the Board's administrative process. This has resulted in a waste of time and expense for the Respondent sanitary district, and for the Board's own Hearing Officer who documented (8 times) the inability to reach her, and who was forced to schedule additional status calls because she would not respond to her own attorney, opposing counsel, or his own orders.

13. Mrs. Bruce initiated this matter. It is, therefore, her obligation to prosecute it. She can dismiss it, try to settle it, or litigate it. She cannot simply choose to be absent from it and expect it to go forward without her involvement or effort on her part.

WHEREFORE, Respondent requests that the Board dismiss the amended complaint for want of prosecution, with prejudice.

Respectfully submitted,


Heidi E. Hanson

Dated: January 19, 2018

Joseph R. Podlewski Jr.
Heidi E. Hanson
Podlewski & Hanson P.C.
4721 Franklin Ave, Suite 1500
Western Springs, IL 60558-1720
(708) 784-0624

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DISTRICT,)	
)	
Respondent.)	

CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Motion to Dismiss amended Complaint for Want of Prosecution are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

Dated: January 19, 2018



 Heidi E. Hanson

Bruce v. H.H.S.D. status

Heidi Hanson

Thu 12/14/2017 3:19 PM

To: Sbruce294@gmail.com <Sbruce294@gmail.com>;

Cc: Joe Podlewski <jpodlewski@live.com>;

Bcc: Heidi Hanson <heh70@hotmail.com>;

Mrs. Bruce,

I tried to reach you last week by phone. Please let me know when would be a good time to call. We need to talk about the settlement and about setting up a new time for the hearing officer status call.

**Thank you,
Heidi**

Heidi E. Hanson
Podlewski & Hanson
4721 Franklin Ave., Suite 1500
Western Springs, IL 60558
Tel: 708-784-0624
Fax: 708-784-0627
heh70@hotmail.com
www.podhanlaw.com

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Attachment 3

PODLEWSKI & HANSON

Law Office
4721 Franklin Ave., Suite 1500
Western Springs, IL 60558-1720
Telephone (708) 784-0624
Fax (708) 784-0627
Heh70@hotmail.com
podhanlaw.com

December 30, 2017

Susan M. Bruce
115 E. 14TH Place
Lombard, IL 60148

And

Susan Bruce
713 S. Princeton
Villa Park, IL 60181

RE: *Susan M. Bruce v Highland Hills Sanitary District*, PCB 15-139

Dear Mrs. Bruce:

We tried to contact you prior to the last Hearing Officer status conference by leaving voice mail messages at the following numbers: 630-941-8953 and 630-589-9113, and also an email message at Sbruce294@gmail.com.

Please advise if the contacts we are using are not correct. We would also appreciate it if you could get in touch with us as soon as possible to discuss the Pollution Control Board matter. Thank you.

Sincerely,



Heidi E. Hanson
Podlewski & Hanson

cc: HHSD

Re: PCB 15-139)Bruce) change of time for status call

Heidi Hanson

Tue 1/9/2018 9:32 AM

To: Halloran, Brad <Brad.Halloran@illinois.gov>; Sbruce294@gmail.com <Sbruce294@gmail.com>;

Cc: Joe Podlewski <jpodlewski@live.com>;

Mr. Halloran,

11:00 will work for Joe and I. I have the following numbers for Mrs. Bruce, but she has not responded to messages left at the phone numbers or email. I am sending a copy of this email to her email address.

630-941-8953 (land line)

630-589-9113 (cell)

Sbruce294@gmail.com

Heidi E. Hanson

Podlewski & Hanson

4721 Franklin Ave., Suite 1500

Western Springs, IL 60558

Tel: 708-784-0624

Fax: 708-784-0627

heh70@hotmail.com

www.podhanlaw.com

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In compliance with U.S. Treasury regulations, please be aware that any discussion of Federal tax issues in this communication was not intended or written to be used, and cannot be used, by any person (i) for the purpose of avoiding penalties that may be imposed by the Internal Revenue Service, or (ii) to promote, market or recommend to another party any matter addressed herein.

This information block, the typed name of the sender or anything else in this message is not intended to constitute an electronic signature unless a specific statement to the contrary is included in this message.

Attachment 4
(2nd page)

From: Halloran, Brad <Brad.Halloran@illinois.gov>
Sent: Tuesday, January 9, 2018 7:46 AM
To: Joe Podlewski (jpodlewski@live.com); Heidi Hanson
Subject: PCB 15-139)Bruce)

Counsel- I have an unanticipated dental appt. today. I was wondering if we could move the status call scheduled for 11:30 this morning up to no later than 11:00 a.m.? I do not have Bruce's number or e-mail address. Thanks in advance.

Brad Halloran

State of Illinois - CONFIDENTIALITY NOTICE: The information contained in this communication is confidential, may be attorney-client privileged or attorney work product, may constitute inside information or internal deliberative staff communication, and is intended only for the use of the addressee. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify the sender immediately by return e-mail and destroy this communication and all copies thereof, including all attachments. Receipt by an unintended recipient does not waive attorney-client privilege, attorney work product privilege, or any other exemption from disclosure.

PCB 15-139

Halloran, Brad <Brad.Halloran@illinois.gov>

Wed 1/10/2018 1:38 PM

To: Joe Podlewski (jpodlewski@live.com) <jpodlewski@live.com>; Heidi Hanson <heh70@hotmail.com>;
Sbruce294@gmail.com <Sbruce294@gmail.com>;

Just an FYI that Ms. Bruce called my office telephone and left a voice-mail and her number 630-941-8953.

State of Illinois - CONFIDENTIALITY NOTICE: The information contained in this communication is confidential, may be attorney-client privileged or attorney work product, may constitute inside information or internal deliberative staff communication, and is intended only for the use of the addressee. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify the sender immediately by return e-mail and destroy this communication and all copies thereof, including all attachments. Receipt by an unintended recipient does not waive attorney-client privilege, attorney work product privilege, or any other exemption from disclosure.

CERTIFICATE OF SERVICE

I, the undersigned attorney, certify that I have served on this date the attached:

MOTION TO DISMISS AMENDED COMPLAINT FOR WANT OF PROSECUTION

upon the Clerk's Office On-Line, Illinois Pollution Control Board by electronic filing this day before 4:30, and

upon the following, by email transmission before 4:30:

Bradley Halloran, Hearing Officer at the email address of Brad.Halloran@illinois.gov,
(pursuant to 35 Ill Adm. Code 101.1060(d)),

Mrs. Susan Bruce at the email address of Sbruce294@gmail.com


And

U.S mail courtesy copy postage prepaid by deposit in a U.S. Mail box before 4:30 this day

Susan M. Bruce
115 East 14th Place
Lombard, IL 60148

There are twelve (12) pages in the email, including this Certificate.

My email address is heh70@hotmail.com.


Heidi E. Hanson

Dated: January 19, 2018

Joseph R. Podlewski Jr.
Heidi E. Hanson
Podlewski & Hanson P.C.
4721 Franklin Ave, Suite 1500
Western Springs, IL 60558-1720
(708) 784-0624