

ILLINOIS POLLUTION CONTROL BOARD

November 5, 2015

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 10-86
)	(Enforcement-Water)
ILLINOIS FUEL COMPANY, LLC,)	
a Kentucky limited liability company,)	
)	
Respondent.)	

ORDER OF THE BOARD¹ (by J.D. O’Leary):

On November 2, 2015, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a motion to stay this matter for 30 days (Mot.).

The People state that respondent Illinois Fuel Company, LLC (Illinois Fuel) has not been represented in this matter since its counsel withdrew his appearance on September 17, 2013. Mot. at 1. Although the People report repeated efforts to contact a representative for Illinois Fuel, they state that Illinois Fuel has not participated in status conferences held since its counsel withdrew. *Id.* The People note that their motion for summary judgment is pending.

The People state that Cheyenne Resources, Inc. (Cheyenne), which is not a party to this proceeding, contacted them on October 22, 2015, and participated in the most recent status conference on October 26, 2015. Mot. at 1. The People report Cheyenne’s assertion that it “assumed from Respondent the lease on one of the mines at issue in this proceeding, the Saline County Mine referenced in Counts I and II of the Complaint.” *Id.* at 2. Counsel has indicated that Cheyenne “was still in the process of determining what permits were at issue in this proceeding, and what positions it might take with respect to this proceeding.” *Id.* The People state that they wish “to determine whether any settlement of the issues in this proceeding may be reached with Cheyenne.” *Id.* The People request a 30-day stay “to discuss this matter with Cheyenne.” *Id.*

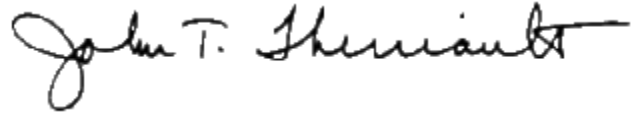
The Board’s procedural rules provide that, “[w]ithin 14 days after service of a motion, a party may file a response to the motion. . . . Unless undue delay or material prejudice would result, neither the Board nor the hearing officer will grant any motion before expiration of the 14 day response period. . . .” 35 Ill. Adm. Code 101.500(d). As noted above, the People have requested a 30-day stay. Based on the procedural rules regarding service and filing (35 Ill. Adm. Code 101.300(b)(2), 101.300(c)), the People’s motion may not become ripe for decision until the regularly-scheduled Board meeting on December 3, 2015, more than 30 days after the motion

¹ Chad Kruse, who worked for the Illinois Environmental Protection Agency prior to joining the Board as an attorney assistant on March 19, 2013, took no part in the Board’s drafting or deliberation of any order or issue in this matter.

was filed. Accordingly, the Board finds that expiration of the 14-day response period for this motion would result in undue delay. Considering the information supporting the motion, and in light of the 30-day duration of the requested stay, the Board grants the People's motion and stays this matter until Monday, December 7, 2015, the first business day after 30 days from the date of this order. "[A]t the close of the stay, the parties must file a status report" detailing the progress of the proceeding. 35 Ill. Adm. Code 101.514. "Additional requests for stay of the proceedings must be directed to the hearing officer." *Id.*

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 5, 2015, by a vote of 5-0.

A handwritten signature in black ink, reading "John T. Therriault", with a stylized flourish at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board