

FOR THE ILLINOIS POLLUTION CONTROL

SUSAN M. BRUCE,)
)
 Complainant,)
)
 v.) No. PCB 15-139
)
 HIGHLAND HILLS SANITARY DISTRICT,)
)
 Respondent.)

OBJECTION TO MOTION FOR PARTIAL SUMMARY JUDGMENT

Complainant, SUSAN M. BRUCE, by her attorney, Lawrence A. Stein of ARONBERG GOLDGEHN DAVIS & GARMISA, LLC, objects to the motion of the respondent, Highland Hills Sanitary District for partial summary judgment. In support of her objection, complainant states as follows:

1. The gist of the motion is that the district does not “own or operate a treatment works and therefore cannot be in violation” of the applicable rules. Respondent supports their motion with the affidavit of Alphonso Sarno, Jr., a past president of the district averring various facts regarding the structure and contractual relationships with the district.

2. The complainant has not had the opportunity to ascertain the truth of those allegations nor has she had the opportunity to obtain evidence to counter Mr. Sarno’s averments in his affidavit. Under these circumstances it would be premature to render summary judgment based on the affidavit. The complainant will be seeking to take appropriate action to ascertain the truth of Mr. Sarno’s averments promptly.

3. Under these circumstances, there is still an issue of fact whether the district owns or operates a treatment works and partial summary judgment should not be granted on that basis.

4. The respondent also seeks partial summary judgment on the grounds that the *Travieso* order does not apply or cannot be enforced. However, the Board has already ruled on that contention and there is no reason to re-visit that issue.

5. Finally, the respondent argues that even if the *Travieso* order could be enforced, it should not be enforced in this case due to the passage of time. Complainant's argument regarding the passage of time raises an issue of fact and cannot warrant partial summary judgment.

WHEREFORE, Complainant, SUSAN M. BRUCE, requests an order denying the motion of respondent, Highland Hills Sanitary District, for partial summary judgment, and for all relief deemed appropriate under the circumstances.

SUSAN M. BRUCE

/s/ Lawrence A. Stein

By: _____
One of Her Attorneys

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CERTIFICATE OF MAILING

1. I, LAWRENCE A. STEIN, certify under penalty of perjury on this 11th day of May, 2016, as follows:

2. I served this *Objection to Motion for Partial Summary Judgment* by placing it an envelope with proper first class postage prepaid and plainly addressed to Joseph R. Podlewski, Jr., Esq. and Heidi Hanson, Esq., Podlewski & Hanson, P.C., 4721 Franklin Avenue, Suite 1500, Western Springs, IL 60558-1720.

3. I deposited the envelope in the United States mail in Chicago on May 11, 2016.

/s/ Lawrence A. Stein
