

ILLINOIS POLLUTION CONTROL BOARD
March 3, 2005

MATHER INVESTMENT PROPERTIES,)
L.L.C.,)
)
Petitioner,)
)
v.) PCB 05-29
) (Citizens Enforcement - Land)
ILLINOIS STATE TRAPSHOOTERS,)
ASSOCIATION, INC.,)
)
Respondent.)

ORDER OF THE BOARD (by J.P. Novak):

On February 14, 2005, respondent Illinois State Trapshooters Association, Inc. (Trapshooters) filed an Agreed Motion for Extension of Time to File an Answer or to Otherwise Plead (Agreed Mot. 3). Trapshooters requested an additional 90 days to May 17, 2005, in which to file an answer or other responsive pleading, stating that “the parties remain engaged in serious settlement talks, but will need some additional time to reach final settlement.” Agreed Mot. 3 at 1. On February 23, 2005, petitioner Mather Investment Properties, L.L.C. (Mather) filed a Response to Agreed Motion for Extension of Time to File an Answer (Resp. 3), in which it stated that it did not object to the Board granting Trapshooters’ motion. Resp. 3 at 1. Mather also referred to ongoing settlement discussions that need more time to bear fruit. *See id.*

On August 17, 2004, Trapshooters filed a one-count citizens complaint (Comp.) against Mather. Trapshooters allege that Mather violated Section 21(e) of the Environmental Protection Act (Act) (415 ILCS 5/21(e) (2002)). Trapshooters further allege that Mather violated this provision by abandoning lead fragments, broken clay targets, and associated contamination constituting waste at a site that was not permitted as a waste disposal, treatment, or storage site under the Act or the regulations or standards promulgated under it. Comp. at 5-6.

On October 13, 2004, Trapshooters filed an Agreed Motion for Extension of Time to File an Answer (Agreed Mot. 1) in which it sought 60 additional days to December 15, 2004, in which to file its answer. Trapshooters stated “the parties are presently engaged in serious settlement talks, but will need some additional time to reach final settlement.” Agreed Mot. 1 at 1. On October 18, 2004, Mather filed a Response to Agreed Motion for Extension of Time to File an Answer (Resp. 1) indicating that it had no objection to the Board granting the agreed motion. Resp. 1 at 1. In an order issued October 14, 2004, Board Hearing Officer Carol Webb (*née* Sudman) granted the motion.

On December 15, 2004, Trapshooters filed another Agreed Motion for Extension of Time to File an Answer (Agreed Mot. 2) in which it sought 60 additional days to February 15, 2005, in

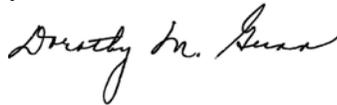
which to file its answer. Trapshooters stated “the parties remain engaged in serious settlement talks, but will need some additional time to reach final settlement.” Agreed Mot. 2 at 1. On December 17, 2004, Mather filed a Response to Agreed Motion for Extension of Time to File an Answer (Resp. 2) indicating that it had no objection to the Board granting the agreed motion. Resp. 1 at 1. In an order issued December 21, 2004, Board Hearing Officer Carol Webb granted the motion.

The Board notes that, as of the date of this order, more than six months have passed since Mather filed its complaint. As a consequence of the parties’ requests, the Board has not yet determined whether the complaint is frivolous or duplicative (35 Ill. Adm. Code 103.212(b), *see* 35 Ill. Adm. Code 101.202) and has not accepted the case for hearing (35 Ill. Adm. Code 103.212(b)).

The Board grants the parties’ agreed motion for an additional 90 days in which to file an answer, which is now due no later than May 17, 2005. If the parties do not file a stipulation and proposed settlement on or before that date, the Board will reach a determination whether the complaint is frivolous or duplicative and whether to accept the case for hearing. *Id.* The May 17, 2005 deadline is nine months after the filing of the complaint, and the Board will look with disfavor upon a fourth motion for an extension of the deadline for filing an answer.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 3, 2005, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board