

ILLINOIS POLLUTION CONTROL BOARD

May 2, 2002

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 01-144
) (Enforcement – Public Water Supply)
CITY OF PANA, HOUSING AUTHORITY)
OF CHRISTIAN COUNTY, PRAIRIELAND)
CONSTRUCTION, INC., and RICH)
WILLIAMS d/b/a C.R. WILLIAMS &)
ASSOCIATES ARCHITECTS,)
)
Respondents.)

PRAIRIELAND CONSTRUCTION, INC.,)
)
Cross-Complainant,)
)
v.) PCB 01-144
) (Enforcement – Public Water Supply)
CITY OF PANA, HOUSING AUTHORITY) (Cross-Complaint)
OF CHRISTIAN COUNTY, and RICH)
WILLIAMS d/b/a C.R. WILLIAMS &)
ASSOCIATES ARCHITECTS,)
)
Cross-Respondents)

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

On April 20, 2001, the Office of the Attorney General, on behalf of the People of the State of Illinois (People) filed a two-count complaint against the City of Pana (Pana), the Housing Authority of Christian County (HACC), PrairieLand Construction, Inc. (PrairieLand), and Rich Williams d/b/a C.R. Williams & Associates Architects (Williams). See 415 ILCS 5/31(c)(1) (2000); 35 Ill. Adm. Code 103.204. The People alleged that respondents violated Sections 12(b), 15(a), and 18(a) of the Environmental Protection Act (Act) (415 ILCS 5/12(b), 15(a), and 18(a) (2000)); Sections 602.101(b), 602.102, and 607.104(b) of the Board's regulations (35 Ill. Adm. Code 602.101(b), 602.102, and 607.104(b)), and Sections 652.201, 652.203, and 653.119 of the Environmental Protection Agency's (Agency) regulations (35 Ill. Adm. Code 652.201, 652.203, and 653.119). The People further alleged that respondents violated these provisions by owning, controlling, supervising, and/or constructing water and sewer mains less than 10 feet apart, submitting insufficient plans for the water/sewer main

project, by placing the water mains into service without an operating permit, by failing to perform disinfection, and by failing to submit bacteriological samples. The People also allege similar violations of the Act, the Board's regulations, and the Agency's regulations against the other respondents. The complaint concerns the construction of a water and sewer main project at the Washington Court Housing Project in Pana, Christian County.

On July 10, 2001, the People and HACC filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2000)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2000)). See 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Pana News-Palladium* on July 12, 2001. The Board received a timely request for hearing from PrairieLand on August 3, 2001. See 415 ILCS 5/31(c)(2) (2000).

On August 23, 2001, PrairieLand filed a cross-complaint against the other respondents for contribution.

On November 19, 2001, the People and Pana filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act. The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Pana News-Palladium* on November 29, 2001. The Board received a timely request for hearing from PrairieLand on November 30, 2001.

On March 28, 2002, the People and PrairieLand filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act. The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Pana News-Palladium* on April 1, 2002.

On April 15, 2002, PrairieLand filed a motion to withdraw requests for hearing. Specifically, PrairieLand withdrew its requests for hearing in connection with the stipulations and settlements involving both HACC and Pana.

Since the requests for hearing have been withdrawn, and no other requests for hearing have been filed in connection with the HACC, Pana, or PrairieLand stipulations and settlements, the Board grants HACC's, Pana's, and PrairieLand's requests for relief from the hearing requirement. See 415 ILCS 5/31(c)(2) (2000); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. 35 Ill. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of HACC's, Pana's, and PrairieLand's operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act (415 ILCS 5/33(c) (2000)).

The People, HACC, Pana, and PrairieLand have satisfied Section 103.302. HACC agrees to pay a civil penalty of \$4,000. Pana agrees to pay for a \$7,500 Supplemental Environmental Project and agrees to pay a civil penalty of \$2,140. PrairieLand does not affirmatively admit the alleged violations and agrees to pay a civil penalty of \$5,000. The Board accepts the stipulations and proposed settlements.

The proposed stipulations and settlements between the People and HACC, Pana, and PrairieLand have no effect on the People's allegations against Rich Williams d/b/a C.R. Williams & Associates Architects.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. HACC must pay a civil penalty of \$4,000 no later than June 1, 2002, which is the 30th day after the date of this order.
3. Pana must pay a civil penalty of \$2,140. By June 1, 2002, which is the 30th day after the date of this order, Pana must make the first of eight payments in equal installments of \$267.50. The remaining penalty payments shall be made in the amount of \$267.50 every 90 days until the penalty is satisfied.
4. PrairieLand must pay a civil penalty of \$4,000 no later than June 1, 2002, which is the 30th day after the date of this order.
5. HACC, Pana, and PrairieLand must pay the civil penalties by certified checks or money orders, payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case numbers, case names, and HACC's, Pana's or PrairieLand's federal employer identification number must be included on the certified checks or money orders.
6. HACC, Pana, and PrairieLand must send the certified checks or money orders to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

HACC, Pana, and PrairieLand must simultaneously submit copies of the checks and payment transmittals to

Donna Lutes
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

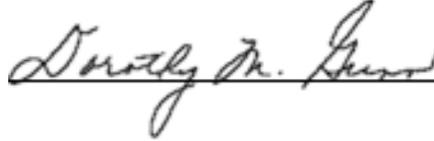
7. If HACC, Pana, and/or PrairieLand fail to comply with any material requirement set forth in its stipulation and proposal for settlement, HACC, Pana and/or PrairieLand shall pay in liquidated penalties the sum of \$500.00 per month of noncompliance, until such time as the requirements are complied with, said penalty to be paid to the Environmental Protection Trust Fund in the manner provided above.
8. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
9. Pana must also undertake and complete a Supplemental Environmental Project (SEP). The SEP involves replacing a section of railroad right-of-way that serves as a hiking/biking trail connecting two segments of the Anderson Prairie. The Anderson Prairie is a 25-acre wildlife park in Pana located south of Route 16 on Chestnut Street. The costs that Pana will incur are expected to be approximately \$7,500.
 - a. Pana must submit a project completion report, including a summary of the actual costs, to the Agency within 90 days of completing the SEP.
 - b. Any public statement, oral or written, made by Pana regarding the SEP must include the following language "This project was undertaken in connection with the settlement of an enforcement action undertaken by the People of the State of Illinois."
10. HACC, Pana, and PrairieLand must cease and desist from the alleged violations.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2000); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the

Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on May 2, 2002, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board