

ILLINOIS POLLUTION CONTROL BOARD

May 16, 2013

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

ORDER OF THE BOARD (by J.D. O'Leary):

On April 22, 2010, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Illinois Fuel Company, LLC (Illinois Fuel). The complaint concerns two coal mines allegedly operated by Illinois Fuel. According to the complaint, one coal mine, commonly known as the "I-1 Mine," is located five miles northeast of Herod, and within the Shawnee National Forest, in Saline County. The other coal mine, commonly known as "Mine # 4," is located five miles southwest of Junction, in Gallatin County.

The Board issued an order on May 6, 2010, accepting the complaint for hearing. On an extension granted by the hearing officer, Illinois Fuel timely filed an answer to the complaint on October 25, 2010. Since then, roughly every three months, the hearing officer has conducted telephonic status conferences during which the parties reported on the progress of such matters as settlement discussions and compliance plans.

On April 10, 2013, the People filed a motion for leave to file an amended complaint, attaching the amended complaint. Based upon an April 29, 2013 telephonic status conference with the parties, the hearing officer granted the People's unopposed motion for leave to file in an order of that date. The hearing officer order also set the agreed-upon date of June 13, 2013, as the deadline for Illinois Fuel to file an answer to the amended complaint.

The amended complaint adds a new count III, alleging that Illinois Fuel violated Section 12(f) of the Environmental Protection Act (Act) (415 ILCS 5/12(f) (2010)) by operating Mine #4 without a National Pollutant Discharge Elimination System (NPDES) permit. The amended complaint therefore contains a total of five counts. The amended complaint also adds paragraphs to two other counts, alleging additional violations of Section 12(f) of the Act based purportedly upon further review of Illinois Fuel's Discharge Monitoring Reports (DMRs).

The Board accepts the amended complaint for hearing. Illinois Fuel's failure to file an answer to the amended complaint by the June 13, 2013 deadline may have severe consequences. Generally, if a respondent fails to timely file an answer specifically denying, or asserting

insufficient knowledge to form a belief of, a material allegation in a complaint, the Board will consider the respondent to have admitted the allegation. *See* 35 Ill. Adm. Code 103.204(d). However, if Illinois Fuel timely files a motion to strike or dismiss the amended complaint, the time period for filing an answer will be stayed until the Board disposes of the motion. *See* 35 Ill. Adm. Code 103.204(e). The Board directs the hearing officer to proceed expeditiously to hearing in the manner described in the Board's order of May 6, 2010.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 16, 2013, by a vote of 5-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

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John Therriault, Assistant Clerk  
Illinois Pollution Control Board