

Illinois Federal District Court Dismisses Contamination Claim Against Drainage and Levee District

By: Dave Scriven-Young, Attorney at Peckar & Abramson, P.C.

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On May 13, 2010, the U.S. District Court for the Central District of Illinois granted a motion to dismiss claims for breach of the Illinois Drainage Code, trespass, and contribution/indemnification, in *Wilder Corp. v. Thompson Drainage & Levee District, No. 09-1322*.

This case has a complicated procedural history. In 2006, the Nature Conservancy filed a complaint against Wilder Corp. alleging breaches of various agreements related to the Conservancy's purchase of certain land in Fulton County, Illinois from Wilder. In 2008, the Conservancy filed an Amended Complaint in that litigation alleging that there was additional contamination in an area south of the pump house on the property that had been operated by Thompson Drainage and Levee District (the "District"). In July 2009, Wilder sought leave to file a third-party complaint against the District based on its contention that this contamination was caused by the District, which was denied as untimely.

Wilder then filed a new lawsuit against the District alleging breach of the Illinois Drainage Code, trespass, and a claim for contribution/indemnification. The District moved to dismiss the complaint as barred by the statute of limitations and for failure to state a claim upon which relief can be granted.

The Court granted the motion to dismiss. The Court first ruled that the claims under the Drainage Code and trespass were barred by the one-year statute of limitations under the Local Governmental and Governmental Employees Tort Immunity Act. The Court then ruled that the contribution/indemnity claim should be dismissed because Wilder had not claimed that the District was a joint tortfeasor with the District for purposes of contribution and that there was no express or implied contract between Wilder and the District upon which indemnity could be based.

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