

BEFORE THE POLLUTION CONTROL BOARD

MICHAEL J. KORMAN,)
)
)
 Complainant,)
)
 v.) PCB No. 2020-062
) (Citizen Enforcement – NPDES, Water)
)
 ILLINOIS DEPARTMENT OF)
 TRANSPORTATION,)
)
 Respondent,)
)
)

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that today, August 17, 2020, I filed Complainant's Response for a Demand for a Bill of Particulars in the above-referenced matter with the Clerk of the Illinois Pollution Control Board, a copy of which is attached hereto and herewith served upon you via e-mail.

Respectfully Submitted,

Michael J. Korman

By:



MICHAEL J. KORMAN
Citizen of the Village of Glenview,
the County of Cook & the State of
Illinois
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CERTIFICATE OF SERVICE

Michael J. Korman v. Illinois Department of Transportation, PCB 20-62
(Citizen)

I, MICHAEL J. KORMAN, a Citizen of the Village of Glenview, the County of Cook and the State of Illinois, do certify that I caused a true and correct copy of the attached Complainant's response to the Respondent's Demand for a Bill of Particulars to be served by electronic mail with receipt notification requested to all the individuals listed on the attached service list, on this August 17, 2020.

By: 
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SERVICE LIST

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Complainant,)	
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v.)	PCB No. 2020-062
)	(Citizen Enforcement – NPDES, Water)
ILLINOIS DEPARTMENT OF)	
TRANSPORTATION)	
Respondent,)	
)	
)	

RESPONSE TO DEMAND FOR BILL OF PARTICULARS

NOW COMES the Complainant, Michael J. Korman (“MJK”) by and through myself as a private Citizen of the State of Illinois in response to the Respondent’s Demand for a Bill of Particulars filed by Attorney General KWAME RAOUL, Attorney General of the State of Illinois on behalf of the Respondent, ILLINOIS DEPARTMENT OF TRANSPORTATION (“IDOT”), hereby states as follows:

MJK moves this Board to hear the Formal Complaint through the established PCB Hearing Process as this is an Appeal of an Illinois Environmental Protection Agency (“IEPA”) decision to issue a permit for the project identified by NPDES # ILR10av06 and identified on the issued permit as idot Contract 60N83. Mar ’19 Letting Item 4. SN-016-0533 Carrying Willow Rd. The FORMAL COMPLAINT filed by MJK fully conforms to the IPCB Citizens’ Guide to the Illinois Pollution Control Board (Updated November 30, 2017).

The original complaint seeks to review the IEPA permit approval covered under 35 Ill. ADM. Code 105.204b. IEPA granted pro forma approval of the Notice of Intent for this project with a Permit Coverage Date of June 18, 2019. This complaint was filed with PCB during construction. Construction commenced on or about June 2019 on this project and I have witnessed, identified and documented Stormwater Pollution violations at this site which I will provide as part of the hearing process.

This response is intended to focus on the IEPA NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (“NPDES”) Permit approval as follows:

In accordance with (“IAW”) the IEPA-signed General NPDES Permit For Storm Water Discharges From Construction Site Activities with an effective date of August 3, 2018, which is deficient in the following list:

1. As listed in Part IV of the NPDES ILR10 the SWPPP 'shall be prepared in accordance with good engineering practices'.
2. IAW Part IV B.5: the Copy of the 'letter of notification of coverage' AND the 'General NPDES Permit for Storm Water Discharges from Construction Site Activities' shall be posted at the site in a prominent place for public viewing. Public viewing should NOT require entry onto private property, such as trespassing, but these should be able to be viewed from the street or nearby sidewalks (if applicable). These documents are NOT posted at the project site.
3. IAW Part IV D.1.e: The application is missing 'site map indicating drainage patterns and approximate slopes anticipated before and after major grading activities, locations where vehicles enter or exit the site and controls to prevent offsite sediment tracking, areas of soil disturbance, the location of major structural and nonstructural controls identified in the plan, the location of areas where stabilization practices are expected to occur, locations of on-site or off-site soil stockpiling or material storage'
4. IAW Part IV D.2: The application is missing 'details or drawings that show proper installation of controls and BMPs. The Illinois Urban Manual (<http://www.aiswcd.org/illinois-urban-manual/>) or other similar documents shall be used for developing the appropriate management practices, controls or revisions of the plan. The plan will clearly describe for each major activity identified in paragraph D.1 above, appropriate controls and the timing during the construction process that the controls will be implemented.'
5. IAW Part IV D.2.c.ii.b: While respondent HAS initiated demolition and construction operations at the project site they have NOT installed any storm drain inlet protection at any of the MS4 storm inlets on Patriot Blvd. (runs beneath Willow Road and bridge project) as indicated in the Illinois Urban Manual, specifically IUM-561D (or equivalent). The storm inlets on Willow Road are either missing or have not been properly maintained.
6. IAW Part IV D.2.f and g are substantially non-compliant with a focus on g.iii and g.iv.
7. IAW Part IV D.2.h: Missing in its entirety.
8. IAW Part V F: Missing in its entirety.
9. Please note, under #1 & 3 above this should include properly stamped and sealed Erosion and Sediment Control drawings including a General Location Map, Site Maps which would include Soils, Slopes, Vegetation and Current Drainage Patterns as covered under the US EPA Publication # EPA-833-R-06-004; Developing Your Stormwater Pollution Prevention Plan, A Guide for Construction Sites.
10. The form submitted to IEPA as the SWPPP Plan is Form BDE 2342 (Rev. 09/29/15); I would strongly urge IDOT to re-validate their BDE forms as it relates to Stormwater Pollution and compliance thereto at least as often as every IEPA NPDES Permit # ILR10 is re-issued, which was last done August 3, 2018.
11. IDOT has some exceptional tools in dealing with erosion and sediment control including the Erosion and Sediment Control Field Guide for Construction Inspection (dated July 1, 2010), the Illinois Construction Manual (dated January 2020) and BDE Manual Ch. 41 Construction Site Storm Water Pollution Control (dated January 2019).

12. In paragraph 10 of the Respondent's Demand for a Bill of Particulars I am alleging the following specific types of pollution at this project site: When it rains, stormwater washes over the loose soil on a construction site, along with various materials and products being stored outside. As stormwater flows over the site, it can pick up pollutants like sediment, debris, and chemicals from that loose soil and transport them to nearby storm sewer systems or directly into rivers and lakes.
 - a. Soil, sediments, sand and minerals used in construction
 - b. Concrete waste and washouts from cement trucks
 - c. POL including: Motor Oil, grease, antifreezes, brake fluid, battery fluids, solvents
 - d. Paints
 - e. Trash & debris
 - f. Nutrients (Phosphorus, Nitrogen, etc.), Pesticides
 - g. Metals including Aluminum, Copper, Iron and Lead
 - h. Chemical Oxygen Demand (COD) & Biochemical Oxygen Demand (BOD)
 - i. Bacteria, viruses and other pathogens
13. In response to paragraph 16 of the Respondent's Demand for a Bill of Particulars I am alleging that the pollution is travelling from the upper roadway of Willow Road to the stormwater conveyance systems to the North and South of the Roadway to the MS4 systems operated by the Village of Glenview and the Village of Northbrook which feed the downstream watersheds to the South of the project including the Kent Fuller Air Station Prairie Preserve and Lake Glenview as well as to the West Fork of the North Branch of the Chicago River. Further, stormwater pollution that drops to Patriot Blvd., which is under the active Willow Road construction project travels to the storm inlets which also travel to the Kent Fuller Air Station Prairie Preserve and Lake Glenview.
14. Please note, I have documented photographic proof of my allegations by aerial (drone) and handheld cameras over the duration of the project.
15. I find this demand for a Bill of Particulars to be a heavy-handed effort by the State of Illinois and the Illinois Department of Transportation to over-burden a Citizen Complainant. Any trained Stormwater professional could walk onto this site and immediately ascertain these same facts. If the Formal or Informal Complaint process of the Illinois Pollution Control Board is not sufficiently robust enough to remedy a complaint that was originally filed in March 2020 and which has allowed pollution to continue unabated then I do hope these processes are reevaluated for their efficacy.

I would state the following for the benefit of the Illinois Pollution Control Board:

I believe that the IEPA is ill-equipped and/or understaffed to properly review the Notices of Intent, the attendant SWPPP documents and is unable to enforce the USEPA delegated Construction Permit program. This is before any inspections might occur in the field. I believe that the MS4 communities believe it is IEPAs responsibility to inspect projects while IEPA thinks it is delegating enforcement to the MS4. This allows owners, contractors and sub-contractors to appear to be compliant without actually needing to be compliant. This results in massive Construction generated pollution across the state of Illinois.

I spent 25-years serving in the United States Navy Seabees and served in combat four times. I retired as a Master Chief Petty Officer in 2012 and my profession was as a Heavy Equipment Operator (EO). I operated dozers, graders, loaders, cranes among other equipment. In every case, when I inspected a unit for combat readiness if I went and reviewed the unit's paperwork (i.e. administrative files) if these files were screwed up then the unit was also. The NPDES Permit process has been in place for nearly two decades, yet nearly every one of the hundreds of recent projects I have reviewed have MATERIAL defects in their paperwork. If the paperwork is not right it will be near impossible to get the execution of Stormwater Compliance done right...if at all.

During my time on the Village of Glenview Plan Commission, resident after resident on project after project complained about Stormwater Pollution and flooding. I became keenly interested in the topic and have achieved the following certifications:

-Qualified Preparer of Stormwater Pollution Prevention Plan (QPSWPPP) Advanced Certificate #e317f3a8 Expires 06/08/2022, by Stormwater One

-Qualified Compliance Inspector of Stormwater Advanced (QCIS) Advanced Certificate #e317f3a8 Expires 06/08/2022, by Stormwater One

In addition to the Respondent, I have filed a Formal Complaint against GW Glenview LLC which is Case #PCB 2021-006 and I have filed no less than nine Informal Complaints against other projects, ongoing and completed, within the Village of Glenview. EVERY one of these projects has a material deficiency in either application or execution.

My desire to file these complaints is an effort to shine a spotlight on the seemingly incomplete effort by all parties to protect our Village, our watersheds, our rivers, lakes, properties (public and private) and citizens. I am NOT seeking to block this project but rather am asking for the proper Stormwater Pollution mitigation efforts under the law.

Finally, if the IEPA is, in fact, ill equipped to handle the current volume of Notices of Intent I would urge the Pollution Control Board to consider asking the United States Environmental Protection Agency to step in and run NPDES Compliance efforts in the State of Illinois as they do for Massachusetts, New Hampshire, New Mexico, District of Columbia, U.S. territories, and on federal and tribal lands.

For these reasons stated herein, the Board should allow the original Formal Complaint to proceed to the standard hearing process as the Board deems appropriate.

Respectfully Submitted,

Michael J. Korman

By: 

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