

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

Paul Christian Pratapas)	
)	
Complainant,)	PCB No. 2023-014
)	(Enforcement)
v.)	
)	
Horizon Construction Group, Inc.)	
)	
Respondent.)	

NOTICE OF FILING

To: Paul Christian Pratapas
330 E. Chicago Ave. #110
Naperville, IL 60540

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the Appearance of Jon Micah Goeller of Husch Blackwell LLP and the Respondent's Motion Requesting That the Board Not Accept Complaint for Hearing and/or Dismiss Complaint of Horizon Construction Group, Inc., a copy of each is herewith served upon you.

Dated this 15th day of August, 2022.

HUSCH BLACKWELL LLP

By: Jon Micah Goeller

Jon Micah Goeller
Husch Blackwell LLP
120 S. Riverside Plaza, Suite 2200
Chicago, IL 60606
(312) 655-1500
(312) 655-1501

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Paul Christian Pratapas)	
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Complainant,)	PCB No. 2023-014
)	(Enforcement)
v.)	
)	
Horizon Construction Group, Inc.)	
)	
Respondent.)	

APPEARANCE

I hereby file my appearance in this proceeding on behalf of Horizon Construction Group, Inc.



Jon Micah Goeller

Husch Blackwell LLP
120 S. Riverside Plaza, Suite 2200
Chicago, IL 60606
(312) 655-1500
(312) 655-1501

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached Appearance upon the following person, delivery costs prepaid, by depositing same in the U.S mail, return receipt requested by the time of 4:00 pm on August 15, 2022, with proper postage or delivery charges prepaid addressed to:

Paul Christian Pratapas
1330 E. Chicago Ave. #110
Naperville, IL 60540



Jon Micah Goeller, Attorney

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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Complainant,)	PCB No. 2023-014
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RESPONDENT’S MOTION REQUESTING THAT THE BOARD NOT ACCEPT COMPLAINT FOR HEARING AND/OR DISMISS COMPLAINT

Pursuant to 35 Ill. Adm. Code §§ 103.212(b) and 101.506, Respondent, the HORIZON CONSTRUCTION GROUP, INC., (“Horizon”) by Husch Blackwell LLP, its attorneys, respectfully requests that the Illinois Pollution Control Board not accept the Citizen’s Formal Complaint filed in this matter for hearing on the basis that the Complaint is frivolous. Further, the Complaint fails to state a cause of action upon which the Illinois Pollution Control Board can grant relief. In support of this request, Respondent states:

1. Respondent denies any claim that any of its activities caused pollution or violate any law, regulation or permit. Without waiving the forgoing, and for the purposes of this motion only, the Complainant’s allegations are taken as true.

2. In Section 5 of the Complaint, the Claimant alleges the Respondent violated the following:

- Clean Water Act: NPDES Permit
- 40 C.F.R. § 450.21(e)(1)
- 40 C.F.R. § 450.21(a)(5)
- 40 C.F.R. § 450.21(e)(3)
- 40 C.F.R. § 450.21(b).

3. Pursuant to 415 ILCS 5/5(d), the Illinois Pollution Control Board (“Board”) has “authority to conduct proceedings upon complaints charging violations of [the Illinois Environmental Protection Act (“Act”)], any rule or regulation adopted under this Act, any permit or term or condition of a permit, or any Board order. . .” Section 5 of the Formal Complaint alleges violations of the Clean Water Act, a Federal statute, and several specific sections of the Code of Federal Regulations. The Formal Complaint does not allege any violation of the Act, any regulations adopted under the Act, or any permit issued under the Act.

4. The Board does not have the authority to enforce the cited Federal law and regulations and cannot grant relief.

5. Pursuant to 35 Ill. Adm. Code 101.202, “frivolous” means a request for relief that the Board does not have authority to grant, or a complaint that fails to state a cause of action upon which the Board can grant relief. The Complaint is frivolous since it alleges violations of Federal law that the Board cannot enforce.

6. Pursuant to 35 Ill. Adm. Code § 103.204(c), the Complaint in an enforcement action in front of the Board must reference the provision of the Act and regulations that the respondents are alleged to be violating. The Complaint fails to state a claim under the Act or any Illinois law.

WHEREFORE, Respondent respectfully requests that the Board refuse to accept the formal complaint for hearing on the basis that it is frivolous and/or that it fails to state a claim for which the Board is authorized to grant relief.

Respectfully submitted,

HORIZON CONSTRUCTION GROUP, INC, Respondent

By HUSCH BLACKWELL LLP,
Its Attorneys

By Jon Micah Goeller

Jon Micah Goeller

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120 S. Riverside Plaza, Suite 2200
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CERTIFICATE OF SERVICE

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Paul Christian Pratapas
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Jon Micah Goeller

Jon Micah Goeller, Attorney