

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

Susanne M. Kirkham
Steven C. Kirkham

Complainants,

v.

Village of Poplar Grove, IL

Respondent

Case No.: PCB 2019-070

(Citizens – Water Enforcement)

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JAN 23 2019

STATE OF ILLINOIS
Pollution Control Board

COMPLAINANT'S OPPOSITION RESPONSE TO RESPONDENT'S MOTION TO DISMISS

First We (the Complainants) wish to apologize to the Illinois Pollution Control Board for any delay or inconvenience as a result of our tardiness in filing this opposition response. The Respondent's Motion to Dismiss was just recently discovered on the Board's web site as We were not served when it was filed with the Board's Clerk. Again sorry.

We (the Complainants) respectfully request that the Board deny the Respondent's Motion to Dismiss on the basis that the claimed omitted information was provided in the originally submitted accompanying exhibits as indicated below.

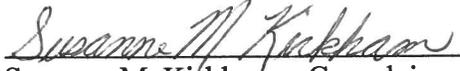
- The date of the incident (April 28) is clearly noted in the Respondent's own letter, ref Exhibit I.
- The location of the polluted and damaged property (915 Beech Bay Road, Poplar Grove, IL) is noted on the Duraclean Specialists, Inc's paperwork, ref Exhibits III and V.
- The nature, extent of the damage, strength of discharge and consequences are documented in the pictures, ref Exhibit II, and the Mitigation Breakdown report from Duraclean Specialists, Inc, ref Exhibit III, in which they frequently mentioned CAT 3 and CAT 2 losses.
- The exact duration of the discharge is unknown as it occurred in the basement which is not continuously occupied. It was only after the foul odor from the discharge permeated to the main level that the incident was detected. The exact duration of the discharge in this case is immaterial as Section 370.450 implies zero tolerance for any "back-up of sewage and subsequent discharge to basements."

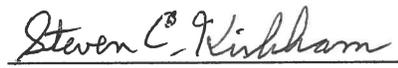
Again referencing Exhibit I, in the opening paragraph the Respondent themselves freely admits that the sanitary sewer back-up was caused by a power line disruption. The discharge of

the raw sewage into the basement that We experienced is precisely the type of incident that compliance to Section 370.450 is intended to prevent.

We (the Complainants) therefore respectfully request that the Illinois Pollution Control Board allow this Formal Complaint to move forward as the Respondent has not addressed the fundamental complaint of adequate compliance to Section 370.450: Emergency Operations that would have averted this incident.

Respectfully Yours,


Susanne M. Kirkham – Complainant


Steven C. Kirkham – Complainant

cc:

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