

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

VILLAGE OF GLENVIEW, Illinois	)	
a municipal corporation, and	)	
SOLID WASTE AGENCY OF NORTHERN	)	
COOK COUNTY, an Illinois statutory solid	)	
waste agency,	)	
	)	
Complainants,	)	
	)	PCB No. 2023-049
v.	)	(Enforcement – Water)
	)	
CATHOLIC BISHOP OF CHICAGO, a	)	
corporation sole, and ILLINOIS	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY, an Agency of State of Illinois,	)	
	)	
Respondents.	)	

**NOTICE OF FILING**

TO: See the Attached certificate of service

PLEASE TAKE NOTICE that on December 13, 2022, I caused to be electronically filed with the Illinois Pollution Control Board, via the “COOL” System, **Response in Opposition to Illinois Environmental Protection Agency’s Motion to Dismiss the Complaint of the Village of Glenview and the Solid Waste Agency of Northern Cook County and Response in Opposition to Catholic Bishop of Chicago’s Motion to Dismiss the Complaint of the Village of Glenview and the Solid Waste Agency of Northern Cook County**, true and correct copies of which are attached hereto and hereby served upon you.

By: /s/ Gregory W. Jones  
One of the Attorneys for Complainants

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**CERTIFICATE OF SERVICE**

The undersigned, an attorney, certify that I served a copy of the attached Notice of Filing and Certificate of Service and documents upon the parties listed below, at their respective addresses, by sealing same into duly-addressed envelopes with proper first-class postage prepaid via certified mail, and depositing said envelopes in the U.S. Mail at or before the hour of 5:00 p.m. on December 13, 2022.

Catholic Bishop of Chicago  
1400 S. Wolf Road  
Hillside, IL 60162

Illinois Environmental Protection Agency  
1021 North Grand Ave. East  
P.O. Box 19276  
Springfield, IL 19276

By: /s/ Gregory W. Jones  
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

VILLAGE OF GLENVIEW, an Illinois )  
municipal corporation; )  
and )  
SOLID WASTE AGENCY OF NORTHERN )  
COOK COUNTY, )  
an Illinois statutory solid waste agency; )

*Complainants,*

PCB CASE NO. 2023-049  
(Enforcement – Water)

v.

CATHOLIC BISHOP OF CHICAGO, )  
A corporation sole; )  
and )  
ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
an agency of the State of Illinois; )

*Respondents.*

**RESPONSE IN OPPOSITION TO CATHOLIC BISHOP OF CHICAGO’S MOTION TO  
DISMISS THE COMPLAINT OF  
THE VILLAGE OF GLENVIEW AND  
THE SOLID WASTE AGENCY OF NORTHERN COOK COUNTY**

Complainants, the Village of Glenview and the Solid Waste Agency of Northern Cook County, by and through their attorneys, Ancel Glink, P.C., in opposition to the Motion to Dismiss filed by the Catholic Bishop of Chicago (“CBOC”) state as follows:

1. The major premise of CBOC’s Motion to Dismiss (“Motion”)—that the Complainants lack standing to challenge the IEPA’s issuance of permits for the compost facility to CBOC and that the Complaint is “duplicitous” of the permit process for the Compost Facility—is a perfect example of the straw man fallacy. Complainants are not challenging IEPA’s issuance of the permits or seeking to appeal the Compost Permit. Rather, the Complaint (1) seeks relief for CBOC’s long-running and ongoing violations of the Act, (2) seeks relief for IEPA’s failure to

regulate CBOC and hold CBOC accountable to end the ongoing pollution at the Landfill, and (3) alleges that even if compliance with the Compost Permit is possible, such actions will—due to the underlying acts of pollution and violation of the Act, regulations and permits—result in further and additional (and independent) violations of the Act. (Complaint. pp. 11-16).

2. As alleged in Count I, paragraph 36 of the Complaint, CBOC is engaged in numerous ongoing and repeated violations of the Act, the Administrative Regulations, and the Permits. (Complaint. pp. 12-13). Specifically, the Complaint alleges facts establishing that CBOC is violating all of the following provisions of the Act and the administrative regulations adopted thereunder:

- 415 ILCS 5/12 (a) - No person shall: (a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.
- 415 ILCS 5/12 (d) - No person shall: (d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.
- 415 ILCS 5/21 (d)(1) and (2) - No person shall: (d) Conduct any waste-storage, waste-treatment, or waste-disposal operation: (1) without a permit granted by the Agency or in violation of any conditions imposed by such permit..., (2) in violation of any regulations or standards adopted by the Board under this Act; or...
- 415 ILCS 5/21 (o)(2) and (3) - No person shall: (o) Conduct a sanitary landfill operation which is required to have a permit under subsection (d) of this Section, in a manner which results in any of the following conditions: ... (2) leachate flows entering waters of the State; (3) leachate flows exiting the landfill confines (as determined by the boundaries established for the landfill by a permit issued by the Agency).
- Title 35 Illinois Administrative Code Section 807.313 - No person shall cause or allow operation of a sanitary landfill so as to cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under the Act. (see 415 ILCS 5/12 (a))
- Title 35 Illinois Administrative Code Section 807.315 - No person shall cause or allow the development or operation of a sanitary landfill unless the applicant proves to the

satisfaction of the Agency that no damage or hazard will result to waters of the State because of the development and operation of the sanitary landfill.

3. The Act allows any person, including third parties, to file a complaint with the Board against any person, including CBOC, for violating the Act, any rule or regulation adopted under the Act, any permit or term or condition of a permit, or any Board order. *See*, 415 ILCS 5/31(d)(1); 415 ILCS 5/3.315; Title 35 IAC 101.202. Because CBOC is engaged in ongoing and repeated violations of the Act, the Administrative Regulations, and the Permits issued to CBOC, Complainants clearly have standing to challenge CBOC's ongoing illegal activities. *See*, 415 ILCS 5/31(d)(1); 415 ILCS 5/3.315; Title 35 IAC 101.202.

4. More specifically, Count I alleges that CBOC is violating and will continue to violate the Act, the Administrative Regulations, and the Permits issued to CBOC because the Landfill is polluting the ground and surface waters of the Landfill and because CBOC has not taken the corrective action necessary to end the pollution. (Complaint. pp. 8-13). The Act specifically grants the Complainants standing to seek relief from this Board to prevent CBOC from continuing to endanger the health, safety, and welfare of countless persons. Accordingly, CBOC's Motion seeking to dismiss the Complaint for lack of standing should be denied.

5. Count II alleges that the activities permitted by the Compost Permit will—due to the underlying acts of pollution and violation of the Act, regulations and permits—result in further and additional (and independent) violations of the Act. (Complaint. pp. 15-16). This is not a Third Party appeal of the Compost Permit but rather a claim that the compost facility, even when operating under the terms and conditions of the Compost Permit, will cause additional violations of the Act and Regulations by the CBOC. (Complaint. pp. 15-16). Again, the Act grants standing to the Complainants to seek relief for these additional violations of the Act and Regulations.

6. CBOC's motion seeking to dismiss the Complaint as duplicitous is an argument that engages in a sleight of hand. Only by mischaracterizing the Complaint as being focused on the Compost Permit (and ignoring CBOC's repeated violations of the Act) can CBOC argue that the Complaint is duplicitous. CBOC would have the Board believe that raising concerns during a permitting process serves as an absolute bar against bringing any action related to that property in the future. That is equally inaccurate and implausible.

7. Again, the Complaint is seeking relief for the long-running and ongoing violations of the Act committed by the CBOC at its Landfill and seeking to prevent the additional violations endangering the environment that will occur in the future as a direct and proximate consequence of the compost activities allowed at the Landfill. An action before the Board is only duplicitous if the matter is identical or substantially similar to one brought before the Board or in another forum. *Brandle v. Ropp* (June 13, 1985), PCB 85-68, 35 Ill. Adm. Code 101.202. The violations of the Act alleged by the Complainants in this Complaint are not presently before the Board or alleged in any other forum. Accordingly, the request that the Board find the Complaint to be duplicitous should be denied and a hearing should be scheduled.

8. Likewise, the motion to dismiss for lack of specificity fails because it is built upon the false premise that no specific permit violations are alleged. Count I of the Complaint sets forth the CBOC's ongoing pollution of ground and surface waters that led IEPA to establish Groundwater Contamination Zones in permits issued to the CBOC. (*See, e.g.*, Complaint ¶ 17) Paragraph 22 then sets forth the ongoing failure to fulfill the remedial requirements of the permits:

22. Moreover, Respondent's IEPA Operating Permit requires the operator to submit an evaluation of the effectiveness of the groundwater extraction trench based on groundwater monitoring results over time. Ignoring the actual data, the Respondent has claimed every year since 2005 (without any supporting basis in fact) that the concentrations measured through groundwater monitoring have peaked and that the concentrations will eventually diminish with the continued operation of the trench. But the data reported demonstrates

that the trench has been ineffective in preventing leachate contaminated groundwater migration and containing leachate to the legally defined site limits. Furthermore, the leachate head has increased near Well R121 from 1998 to at least 2017, indicating that leachate migration in this area will continue to be an issue based on current operations.

(Complaint. pp. 7-8)

9. Furthermore, in paragraph 25, the Complaint alleges that the IEPA delineated a Groundwater Monitoring Zone along the northern portion of the Landfill and that IEPA established new groundwater monitoring thresholds against which to evaluate the effectiveness of the Respondent's remedial actions. Also, in paragraph 28, the Complaint alleges that IEPA required a leachate management system be added to the remedial actions of the CBOC. Paragraphs 29-32 then allege the factual basis for how CBOC has not met these thresholds and not fulfilled the requirement for a functioning leachate management system. Count II specifically alleges that the compost operation will impede or frustrate these remedial requirements in the Landfill permits (*See, e.g.*, Paragraph 40 concerning evaluation of the leachate migration, Paragraph 43 concerning the remediation of the cover system). There is sufficient detail alleged for the Board to take action to protect the environment and enforce the permits. CBOC's motion to dismiss is just its latest effort to avoid accountability for the documented pollution CBOC is placing in the environment.

10. CBOC's motion seeking to dismiss the Complaint for lack of ripeness is baseless. The historic and ongoing violations of the Act at the Landfill that IEPA has refused to regulate are obvious violations that are ripe for evaluation by the Board. CBOC's ripeness argument begs the question: how much more would CBOC like to pollute the environment before CBOC believes it is appropriate for the Board to step in? Moreover, the Complaint sets forth sufficient facts about how the compost facility on top of an existing polluting landfill will cause new violations of the Act and will inhibit and frustrate the remedial efforts that have already been required but not achieved.

WHEREFORE, the Complainants respectfully request that:

- A. The Motion to Dismiss be denied and a hearing be scheduled;
- B. In the alternative, that Complainants be given leave to file an amended complaint;
- C. All costs of this action be assessed against the Respondent; and
- D. For such other relief which the Board deems equitable and just.

Respectfully submitted,

The Village of Glenview  
Solid Waste Agency of Northern Cook County



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**NOTICE OF FILING**

To: CATHOLIC BISHOP OF CHICAGO  
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board (Board) the attached RESPONSE IN OPPOSITION TO CATHOLIC BISHOP OF CHICAGO'S MOTION TO DISMISS THE COMPLAINT OF THE VILLAGE OF GLENVIEW AND THE SOLID WASTE AGENCY OF NORTHERN COOK COUNTY, a copy of which is herewith served upon you along with this Notice of Filing.

Dated: December 13, 2022

Respectfully submitted,

THE VILLAGE OF GLENVIEW  
THE SOLID WASTE AGENCY OF  
NORTHERN COOK COUNTY

By: /s/ Gregory W. Jones  
One of the Attorneys for Complainants

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