

**FORMAL COMPLAINT**

**Before the Illinois Pollution Control Board**

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	)	
PAUL CHRISTIAN PRATAPAS,	)	
an American	)	
	)	
<i>Complainant,</i>	)	
	)	
v.	)	PCB 20 -
	)	[For Board use only]
	)	
Winding Creek by Pulte Homes;	)	
&	)	
City of Batavia	)	
	)	
<i>Respondents</i>	)	
	)	

**1. Your Contact Information**

Name: Paul Christian Pratapas  
Street Address: 1330 E. Chicago Ave.  
Naperville  
County: DuPage  
State: IL  
Phone Number: 630.210.1637

**2. Name and Address of Respondents**

Name: Village of Batavia  
Andrea Podraza, Assistant City Engineer

Address: 100 N Island Ave  
Monee, IL 60449  
Phone: 630.454.2757

Name: Winding Creek by Pulte Homes  
Address: McKee Street and Deerpath Rd  
Batavia, IL 6051  
Phone: 630.897.1724

**3. Describe the type of business or activity that you allege is causing or allowing pollution (e.g., manufacturing company, home repair shop) and give the address of the pollution source if different than the address above.**

Pulte Home is building another housing development while at the same time being named in four other formal complaints with The Board, for in part, because of their unwillingness to make good on their signed certifications.

**4. List specific sections of the Environmental Protection Act, Board regulations, Board order, or permit that you allege have been or are being violated.**

1. 415 ILCS 5.12(a)
2. 415 ILCS 5/12 (d)
3. IL Admin Code Title 35, 304.141(b)

**5. Describe the type of pollution that you allege and the location of the alleged pollution.**

Water: Pulte has not been implementing the BMPs they presented to obtain approval to construct multiple developments throughout Illinois, in violation of their permit. As a result, there has been widespread pollution from uncontrolled sediment and concrete washout entering the street and stormwater system.

Pulte continues to defy requests to comply with their obligations and on 12/13/2022 had their attorney's secretary send me a threatening letter in an attempt to intimidate me away from viewing their sites.

After reading the letter and forwarding it to The Board, Complainant briefly visited Winding Creek and observed inlets surrounded by sediment laden water and curbside gutters with topsoil accumulation. This part of the site had grass and ECB down indicating the pollutants were traveling across the site to low points.

The SWPPP signage observed by complainant was for contractors and did not have required information relating to their permit obligations which are to be posted for the public in a high visibility location.

These same issues are happening across IL With contractors, city staff and police unaware of how Citizen Enforcement Actions work.

Upon referral from The City Engineer, Batavia staff member Andrea Podraza engaged in the same gatekeeper behavior as I attempted to view the original SWPPP Plan as approved by the city of Batavia. So, I could compare to the current interpretation.

Andrea's behavior and that of Pulte show little to no awareness for The Spirit of the Law. SWPPP guidelines were not developed to be a tug of war or opportunity to establish dominance. The same request has been made before and the plans were promptly emailed with no questions asked resulting in the discovery of significant violations. On other occasions I simply met the city engineer, and he showed me the plan. And then I trained him because his level of understanding was so low despite his role in approving SWPPP plans. Yet he simply held himself accountable

**6. Describe the duration and frequency of the alleged pollution.**

Observed on 12/13/2022 at 11:13 PM following rainfall.

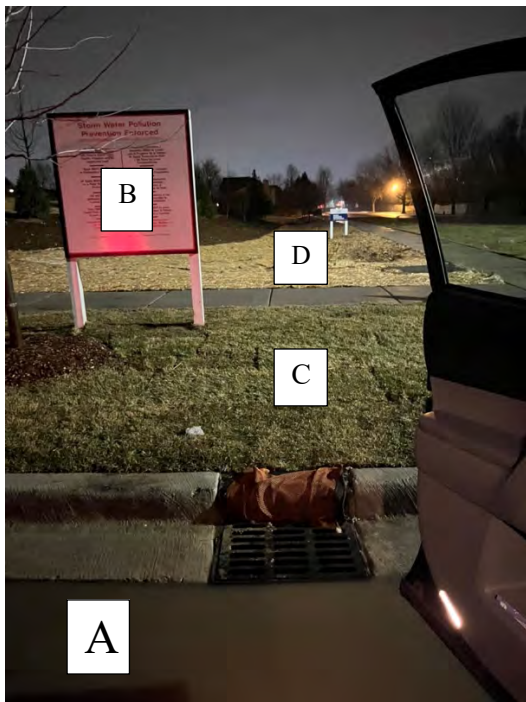
Each day Pulte Homes is allowed to build, the risk of pollution jumps exponentially. And the amount of fraudulent paperwork to be reviewed later becomes harder and harder to manage.

**7. Describe any bad effects that you believe the alleged pollution has or has had on human health, on plant or animal life, on the environment, on the enjoyment of life or property, or on any lawful business or activity.**

The pollutants pose direct risk to wildlife in the area, as well as pets. The need to follow up on City's like Batavia who approve serial polluters has created a massive workload for me and has exposed chinks in the armor of the program relating to enforcement, felony intimidation and contractor certifications. From my perspective, the lack of proper implementation has gone way too far and created a context where violations, fraud, threatening citizens and violating the most basic constitutional rights are the normative behavior. Even my parents have been the recipient of threats by severely uninformed contractors and city/state workers.

Two employees hung up on me for not providing irrelevant personal information they do not need in order to hand me a piece of paper I am entitled to review under the constitution. Batavia then experienced heavy rain the day after the pictures below were taken and I was not allowed to view the approved plans and my request to view the current SWPPP Book has been ignored.

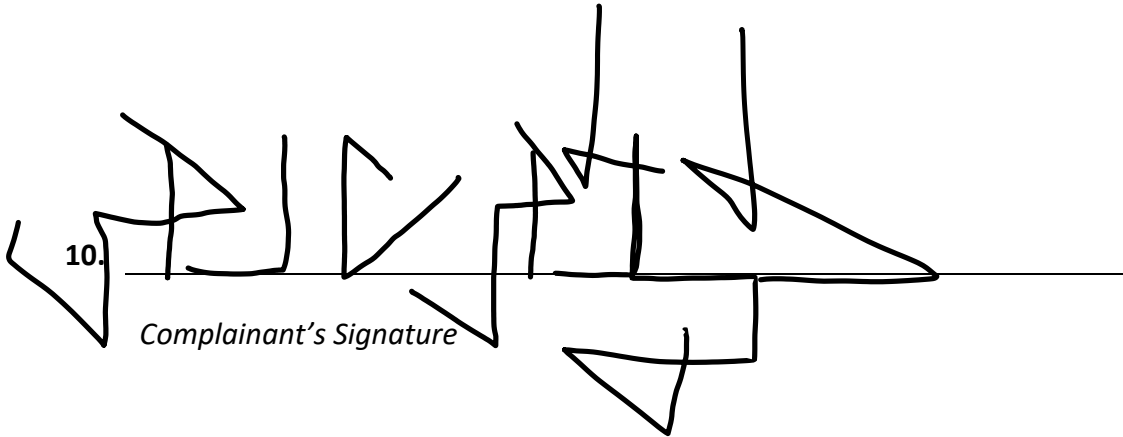
## 8. Relief Requested from the Board



1. Find that Respondent has violated The Act and their permit(s)
2. Assess a civil penalty of Fifty Thousand Dollars (\$ 50,000.00) against Respondent for each violation of the Act and Regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of each violation
3. A board order prohibiting Andrea Podraza from acting as a gate keeper in her role with the NPDES program because of her ego
4. A review of the site contractor certifications
5. An order stating Pulte homes must follow the plans approved by the board, especially phasing the site over 5 years, and adhering to rules for concrete washout
6. A board order requiring Pulte Homes provide access to the SWPPP book, a request again being ignored by Pulte
7. An order requiring The City of Batavia provide complainant with the opportunity to view the originally approved SWPPP
8. Void permit for the sight until such time as all open enforcement cases are closed and changes made to Pulte Operations

9. Identify any identical or substantially similar case you know of brought before the Board or in another forum against this respondent for the same alleged pollution (note that you need not include any complaints made to the Illinois Environmental Protection Agency or any unit of local government).

No identical or substantially similar cases have been brought to The Board which I am aware of.

10.  A handwritten signature in black ink, consisting of several large, stylized, interconnected loops and lines, written over a horizontal line. The signature is positioned to the right of the number '10.' and above the text 'Complainant's Signature'.

*Complainant's Signature*

**CERTIFICATION**

I, \_\_\_\_\_, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

\_\_\_\_\_  
*Complainant's Signature*

Subscribed to and sworn before me

this \_\_\_\_\_ day

of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

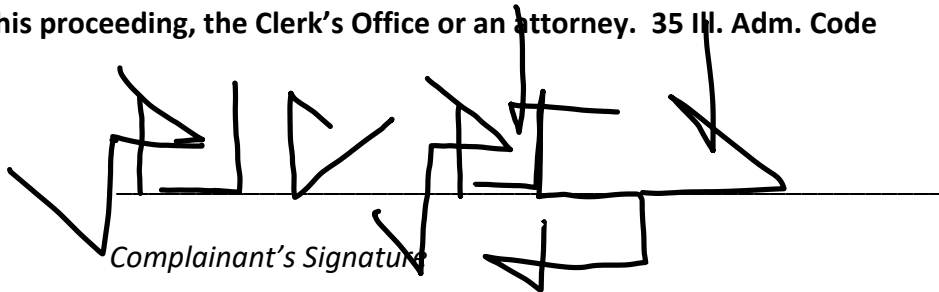
My Commission Expires: \_\_\_\_\_

**NOTICE OF FILING**

**Note to the Complainant:** This Notice of Filing must accompany the Formal Complaint and the Documentation of Service. Once you have completed the Notice of Filing, the Formal Complaint, and the Documentation of Service, you must file these three documents with the Board's Clerk *and* serve a copy of each document on each respondent.

Please take notice that today I, Paul Christian Pratapas, filed with the Clerk of the Illinois Pollution Control Board (Board) a Formal Complaint, a copy of which is served on you along with this Notice of Filing. You may be required to attend a hearing on a date set by the Board.

**Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney. 35 Ill. Adm. Code 103.204(f).**



*Complainant's Signature*

**Street:** 1330 E Chicago Ave.

**City/State/Zip:** Naperville, IL 60540

**Date:** 12/15/2022

**INFORMATION FOR RESPONDENT RECEIVING FORMAL COMPLAINT**

The following information has been prepared by the Board for general informational purposes only and does not constitute legal advice or substitute for the provisions of any statute, rule, or regulation. Information about the Formal Complaint process before the Board is found in the Environmental Protection Act (Act) (415 ILCS 5) and the Board's procedural rules (35 Ill. Adm. Code 101, 103). These can be accessed on the Board's website ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)). The following is a summary of some of the most important points in the Act and the Board's procedural rules.

**Board Accepting Formal Complaint for Hearing; Motions**

The Board will not accept this Formal Complaint for hearing if the Board finds that it is either "duplicative" or "frivolous" within the meaning of Section 31(d)(1) of the Act (415 ILCS

5/31(d)(1)) and Section 101.202 of the Board's procedural rules (35 Ill. Adm. Code 101.202 (definitions of the terms "duplicative" and "frivolous")). "Duplicative" means the complaint is identical or substantially similar to a case brought before the Board or another forum. See 35 Ill. Adm. Code 103.212(a) and item 10 of the Formal Complaint.

"Frivolous" means that the Formal Complaint seeks relief that the Board does not have the authority to grant or fails to state a cause of action upon which the Board can grant relief. For example, the Board has the authority to order a respondent to stop polluting and pay a civil penalty, to implement pollution abatement measures, or to perform a cleanup or reimburse cleanup costs. The Board does not have the authority, however, to award attorney fees to a citizen complainant. See 35 Ill. Adm. Code 103.212(a) and items 5 through 9 of the Formal Complaint.

If you believe that this Formal Complaint is duplicative or frivolous, you may file a motion with the Board, within 30 days after the date you received the complaint, requesting that the Board not accept the complaint for hearing. The motion must state the facts supporting your belief that the complaint is duplicative or frivolous. Memoranda, affidavits, and any other relevant documents may accompany the motion. See 35 Ill. Adm. Code 101.504, 103.212(b). If you need more than 30 days to file a motion alleging that the complaint is duplicative or frivolous, you must file a motion for an extension of time within 30 days after you received the complaint. A motion for an extension of time must state why you need more time and the amount of additional time you need. Timely filing a motion alleging that the Formal Complaint is duplicative or frivolous will stay the 60-day period for filing an Answer to the complaint. See 35 Ill. Adm. Code 103.204(e), 103.212(b); *see also* 35 Ill. Adm. Code 101.506 (generally, all motions to strike, dismiss, or challenge the sufficiency of any pleading must be filed within 30 days after service of the challenged document).

The party making a motion must "file" the motion with the Board's Clerk and "serve" a copy of the motion on each of the other parties to the proceeding. The Board's filing and service requirements are set forth in its procedural rules (35 Ill. Adm. Code 101.300, 101.302, 101.304), which are located on the Board's website ([pcb.illinois.gov](http://pcb.illinois.gov)).

If you do not file a motion with the Board within 30 days after the date on which you received the Formal Complaint, the Board may find that the complaint is not duplicative or frivolous and accept the case for hearing without any input from you. The Board will then assign a hearing officer who will contact you to schedule times for holding telephone status conferences and a hearing. See 35 Ill. Adm. Code 103.212(a).

### **Answer to Complaint**

You have the right to file an Answer to this Formal Complaint within 60 days after you receive the complaint. If you timely file a motion alleging that the complaint is duplicative or frivolous, or a motion to strike, dismiss, or challenge the sufficiency of the complaint, then you may file



an Answer within 60 days after the Board rules on your motion. See 35 Ill. Adm. Code 101.506, 103.204(d), (e), 103.212(b).

Failing to file an Answer to the Formal Complaint within 60 days after you were served with the complaint may have severe consequences. Failure to timely file an Answer will mean that all allegations in the Formal Complaint will be taken as if you admitted them for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office, or an attorney. See 35 Ill. Adm. Code 103.204(f).

#### **Necessity of an Attorney**

Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. In addition, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, even if an individual is not an attorney, he or she is allowed to represent (1) himself or herself as an individual or (2) his or her unincorporated sole proprietorship. See 35 Ill. Adm. Code 101.400(a). Such an individual may nevertheless wish to have an attorney prepare an Answer and any motions or briefs and present a defense at hearing.

#### **Costs**

In defending against this Formal Complaint, you are responsible for your attorney fees, duplicating charges, travel expenses, witness fees, and any other costs that you or your attorney may incur. The Board requires no filing fee to file with the Board your Answer or any other document in the enforcement proceeding. The Board will pay its own hearing costs (*e.g.*, hearing room rental, court reporting fees, hearing officer expenses).

If you have any questions, please contact the Clerk's Office at (312) 814-3461.

## DOCUMENTATION OF SERVICE

**Note to the Complainant:** This Documentation of Service must accompany the Formal Complaint and the Notice of Filing. Once you have completed the Documentation of Service, the Formal Complaint, and the Notice of Filing, you must file these three documents with the Board's Clerk *and* serve a copy of each document on each respondent.

This form for the Documentation of Service is designed for use by a non-attorney and must be notarized, *i.e.*, it is an "affidavit" of service. An attorney may modify the form for use as a "certificate" of service, which is not required to be notarized.

### Affidavit of Service

I, the undersigned, on oath or affirmation, state that on the date shown below, I served copies of the attached Formal Complaint and Notice of Filing on the respondent at the address listed below by one of the following methods: [*check only one—A, B, C, D, or E*]

A. \_\_\_\_ U.S. Mail or third-party commercial carrier with the recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery. Attached is the delivery confirmation from the U.S. Postal Service or the third-party commercial carrier containing the recipient's signature and showing the date of delivery as \_\_\_\_\_ [month/date], 20\_\_\_. [*Attach the signed delivery confirmation showing the date of delivery.*]

B. \_\_\_\_ U.S. Mail or third-party commercial carrier with a recipient's signature recorded or to be recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery. However, the delivery confirmation from the U.S. Postal Service or the third-party commercial carrier containing the recipient's signature is not available to me at this time. On \_\_\_\_\_ [month/date], 20\_\_, by the time of \_\_:\_\_ AM/PM, at \_\_\_\_\_ [*address where you provided the documents to the U.S. Postal Service or the third-party commercial carrier*], copies of the attached Formal Complaint and Notice of Filing were provided to the U.S. Postal Service or the third-party commercial carrier, with the respondent's address appearing on the envelope or package containing these documents, and with proper postage or delivery charge prepaid. [*Within seven days after it becomes available to you, file with the Board's Clerk the delivery confirmation—containing the recipient's signature and showing the date of delivery—and identify the Formal Complaint to which that delivery confirmation corresponds.*]

C. \_\_\_\_ Personal service and I made the personal delivery on \_\_\_\_\_ [month/date], 20\_\_, by the time of \_\_:\_\_ AM/PM.

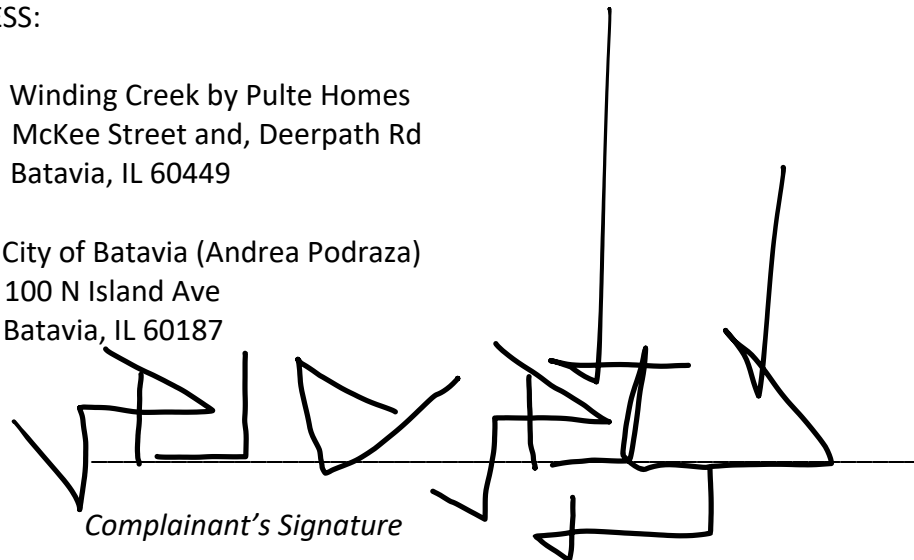
D. \_\_\_\_ Personal service and another person made the personal delivery. Attached is the affidavit of service signed by the other person (or the declaration of service signed by the process server) who made the personal delivery, showing the date of delivery as \_\_\_\_\_ [month/date], 20\_\_\_. [Attach the other person's signed affidavit or declaration showing the date of delivery.]

E. X Personal service and I will make the personal delivery. However, the affidavit of service is not available to me currently.

RESPONDENTS' ADDRESS:

**Name:** Winding Creek by Pulte Homes  
**Street:** McKee Street and, Deerpath Rd  
**City/State/Zip:** Batavia, IL 60449

**Name:** City of Batavia (Andrea Podraza)  
**Street:** 100 N Island Ave  
**City/State/Zip:** Batavia, IL 60187

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to be the name of the complainant.

*Complainant's Signature*

**Street:** 1330 E. Chicago Ave.

**City, State, Zip Code:** Naperville, IL 60540

**Date:** \_\_\_\_\_12/15/2022\_\_\_\_\_

Subscribed to and sworn before me

this \_\_\_\_\_ day

of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

# The Right to Petition Government

*Grade Level:*

6, 7, 8, 9, 10, 11, 12

*Keywords:*

Constitution of the United States

The right to petition grants people not only the freedom to stand up and speak out against injustices they feel are occurring, but also grants the power to help change those injustices. The nonprofit community plays an active role by providing an organized medium to join citizens together in support of causes or in petition of practices that violate their cause.

## Definition

To understand the definition of the concept, right to petition government, one must first understand where this concept originates. The right to petition is one of the fundamental freedoms of all Americans, and is documented in the First Amendment to the Constitution of the United States.

The First Amendment consists of five “freedoms,” which are: Religion, Free Speech, Free Press, Assembly, and Petition. The Petition section of the first amendment, also commonly referred to as the Petition Clause, states that “People have the right to appeal to government in favor of or against policies that affect them or in which they feel strongly. This freedom includes the right to gather signatures in support of a cause and to lobby legislative bodies for or against legislation,” (Copley First Amendment Center) (2). A more simple definition of the right to petition, is “the right to present requests to the government without punishment or reprisal. This right is guaranteed in the First Amendment to the U.S. Constitution” (History Central, 1).

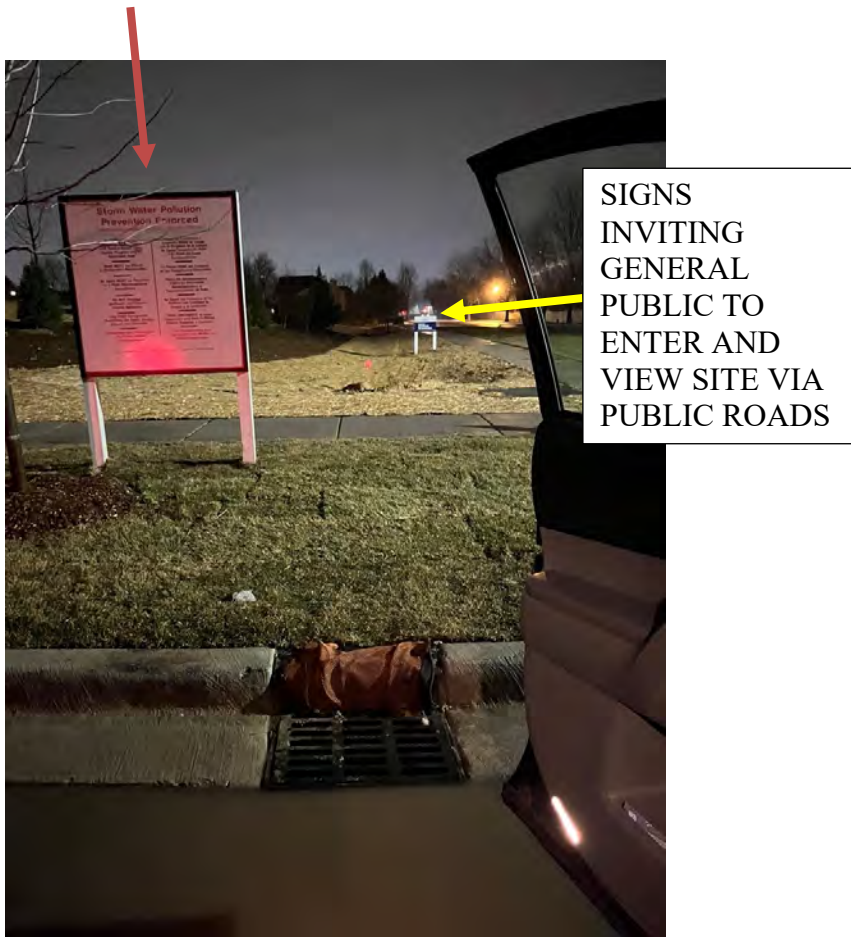
Looking at the specific definition of the word petition, as it relates to the freedom of petition and the First Amendment, the word can be used to describe “any nonviolent, legal means of encouraging or disapproving government action, whether directed to the judicial, executive or legislative branch. Lobbying, letter-writing, e-mail campaigns, testifying before tribunals, filing lawsuits, supporting referenda, collecting signatures for ballot initiatives, peaceful protests and picketing: all public articulation of issues, complaints and interests designed to spur government action qualifies under the petition clause...” (Copley First Amendment Center) (1).

## The Clean Water Act (CWA)

The primary federal law in the United States governing water pollution. **Its objective is to restore and maintain the chemical, physical, and biological integrity of the nation's waters;** recognizing the responsibilities of the states in addressing pollution and providing assistance to states to do so, including funding for publicly owned treatment works for the improvement of wastewater treatment; and maintaining the integrity of wetlands.

The Clean Water Act was one of the United States' first and most influential modern environmental laws. Its laws and regulations are primarily administered by the U.S. Environmental Protection Agency (EPA) in coordination with state governments





Some people want to know how to respond to a specific scenario. Others might ask about the research behind specific parts of the training we provide. Others might ask a question about billing, documenting training, or the course material.

And speaking of the course material, *Nonviolent Crisis Intervention*<sup>®</sup> training talks about questioning as the first component of the *Verbal Escalation Continuum*<sup>SM</sup>. We teach that there are two types of questions: information-seeking questions and challenging questions.

For challenging questions where the person is really presenting an invitation to a power struggle, we of course need to recognize this challenge and either stick to the topic or set limits. We need to downplay the *challenge*, but never the person.

## MISCELLANEOUS PRACTICES

MSC

### TEMPORARY CONCRETE WASHOUT FACILITY

Code 954

MSC



Credit: IUM Technical Review Committee

#### DEFINITION

A device used to manage liquid and solid wastes from concrete usage on construction sites.

#### PURPOSE

To control concrete wastes to prevent both on-site and off-site pollution.

#### CONDITIONS WHERE PRACTICE APPLIES

On any construction site where concrete is used.

#### CRITERIA

The following steps shall be taken to effectively control concrete wastes.

1. Perform washout of concrete mixer trucks in designated areas only.
2. Each facility shall have appropriate signage to inform concrete equipment operators of the proper washout locations.
3. Each facility shall be located in an area protected from possible damage from construction traffic and have a stabilized access to prevent tracking onto streets.
4. Washout facilities shall be located on level ground and a minimum of 50 ft. from storm drain inlets and all open drainage facilities. For smaller sites where the distance criteria may not be practical, washout facilities shall be

**TEMPORARY CONCRETE WASHOUT FACILITY**

(continued)



**CRITERIA (continued)**

- located as far from drainage facilities as possible and additional inspections shall be conducted to ensure no illicit discharges have occurred.
- 5. Temporary concrete washout facilities shall be supplied in sufficient quantity and size to manage all liquid and solid wastes generated by washout operations.
- 6. Washout water from low volume facilities shall be allowed to evaporate and not be discharged into the environment.
- 7. Washout water from high volume facilities shall be removed with a vacuum truck and taken back to the batch plant. Washout water shall not be discharged into the environment.
- 8. Solidified concrete waste from washout facilities shall be considered Clean Construction or Demolition Debris (CCDD) as per the Illinois Environmental Protection Act (415 ILCS 5) and disposed of in accordance to the Act.
- 9. Each facility shall be inspected daily to ensure the container is not leaking or nearing two-thirds capacity of either solids, liquids or a combination of both.

Prefabricated Concrete Washout Facilities

- 1. Prefabricated facilities can be any water tight unit designed to contain concrete slurry and solids.
- 2. Prefabricated facilities shall be of sufficient volume and quantity to contain all the liquids and concrete waste generated by washout operations.

Temporary Concrete Washout Facilities "Above Grade"

- 1. Above grade washout facilities shall be constructed with a minimum length and minimum width of 3m (10ft) but of sufficient volume and quantity to contain all the liquids and concrete waste generated by washout operations.
- 2. The walls of the above grade facilities may be constructed of straw bales, barrier walls or earthen berms. If straw bales are used, they shall be entrenched 3" into the earth, butted tightly end to end and staked in place using 2"x2"x4' wooden stakes. If barrier walls are used, they shall be butted tightly end to end.
- 3. The facility shall be lined with a 30-mil polyethylene liner and secured using sand bags, 6" wire staples, or other



## TEMPORARY CONCRETE WASHOUT FACILITY

(continued)

MSC

### CRITERIA (continued)

anchors. The plastic lining material shall be free of holes and tears and must be impermeable.

#### Temporary Concrete Washout Facilities "Below Grade"

1. Below grade washout facilities shall be constructed with a minimum length and minimum width of 3m (10ft) but of sufficient volume and quantity to contain all the liquids and concrete waste generated by washout operations.
2. The soil base shall be prepared free of rocks or debris that may cause tears or holes in the plastic lining material.
3. The facility shall be lined with a 30-mil polyethylene liner and secured using sand bags, 6" wire staples or other anchors. The plastic lining material shall be free of holes and tears and must be impermeable.

#### Removal of Temporary Washout Facilities

1. When temporary concrete washout facilities are no longer required for the work, the facilities shall be removed from the site of the work.
2. Holes, depressions or other ground disturbances caused by removal of the temporary concrete washout facilities shall be restored to the satisfaction of the engineer.

### OPERATION & MAINTENANCE

1. Temporary concrete washout facilities shall be maintained to provide adequate holding capacity with a minimum freeboard of 100mm (4 in) for above grade facilities and 300mm (12 in) for below grade facilities. Maintaining temporary concrete washout facilities shall include removing and disposing of hardened concrete or slurry and returning the facilities to a functional condition.
2. Existing facilities must be cleaned, or new facilities must be constructed and ready for use once the washout is two-thirds full.
3. Temporary concrete washout facilities shall be inspected for damage (e.g. tears in plastic liner, missing sand bags, etc.). Damaged facilities shall be repaired promptly.