

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

Paul Christian Pratapas,)	
)	
Complainant,)	
)	
v.)	No: PCB 2023-081
)	
Silo Bend and The Townes by Silo Bend)	(Enforcement – Water)
by M/I Homes,)	
)	
Respondent.)	

Notice of Electronic Filing

PLEASE TAKE NOTICE that I have electronically filed today with the Illinois Pollution Control Board **Respondent Silo Bend And The Townes By Silo Bend By M/I Homes’ Motion That The Board Determine That The Formal Complaint Is Frivolous Or, In The Alternative, To Dismiss The Complaint Pursuant To 735 ILCS 5/2-619(a)(9), Memorandum in Support** and accompany **Exhibits**, a copy of which is attached hereto and hereby served upon you.

Respectfully submitted,
By: /s/ David J. Scriven-Young
David J. Scriven-Young

Date: January 12, 2023

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Certificate of Service

The undersigned, an attorney, hereby certifies that the above Notice and any attached documents were served via email transmission to the Clerk and all other parties listed below at the addresses indicated by 5:00 p.m. on January 12, 2023.

Illinois Pollution Control Board
Don Brown – Clerk of the Board
100 W. Randolph St., #11-500
Chicago, IL 60601
Email: don.brown@illinois.gov

Paul Christian Pratapas
(Complainant)
1330 E. Chicago Avenue, #110
Naperville, IL 60540
Email: paulpratapas@gmail.com

Respectfully submitted,

By: */s/ David J. Scriven-Young*
David J. Scriven-Young

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PAUL CHRISTIAN PRATAPAS,)	
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Complainant,)	
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v.)	No. PCB 2023-081
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SILO BEND AND THE TOWNES BY SILO BEND)	
BY M/I HOMES,)	(Enforcement – Water)
)	
Respondent.)	

**RESPONDENT SILO BEND AND THE TOWNES BY SILO BEND
BY M/I HOMES' MOTION THAT THE BOARD DETERMINE THAT THE FORMAL
COMPLAINT IS FRIVOLOUS OR, IN THE ALTERNATIVE, TO DISMISS THE
COMPLAINT PURSUANT TO 735 ILCS 5/2-619(a)(9)**

NOW COMES the Respondent, SILO BEND AND THE TOWNES BY SILO BEND BY M/I HOMES (“M/I”), by and through its attorneys, Corporate Law Partners, PLLC and Peckar & Abramson, P.C., and for their Motion that the Board Determine that the Formal Complaint (“Complaint”) of the Complainant, PAUL CHRISTIAN PRATAPAS (“Pratapas”), is Frivolous pursuant to 35 Ill. Admin. Code § 103.212(a) or to Dismiss the Complaint pursuant to 35 Ill. Admin. Code § 101.500 and 735 ILCS 5/2-619(a)(9), does hereby state as follows:

1. On December 19, 2022, Pratapas filed a Complaint alleging that M/I violated 415 ILCS 5/12(a) and (d) and 35 Ill. Admin. Code § 304.141(b).
2. The Board should determine that the Complaint is frivolous pursuant to 35 Ill. Admin. Code § 103.212(a) because it fails to state a cause of action upon which the Board can grant relief, for three reasons. First, the Complaint fails to allege, as required, the extent, duration, or strength of the offending event. Second, the Complaint relies solely on legal conclusions that are not based upon any facts contained in the Complaint. Third, the Complaint seeks relief that the Board does not have authority to grant.

3. Alternatively, this Board should dismiss the Complaint pursuant to 35 Ill. Admin. Code § 101.500 and 735 ILCS 5/2-619(a)(9) because Pratapas's claims are barred by affirmative matter avoiding the legal effect of or defeating the claims. The undisputed facts clearly evidence that concrete wash water, slurry, and sediment laden water were managed and controlled in compliance with the NPDES permit, which negates any possible finding of a violation of 35 ILCS 304.141(b). Further there is no evidence of the creation of any water pollution hazard on December 18, 2022 in violation of 415 ILCS 5/12(a) and (d).

4. This motion is supported by M/I's Memorandum of Law and Jason Polakow's Affidavit and exhibits thereto, which are being filed contemporaneously herewith.

WHEREFORE, Respondent SILO BEND AND THE TOWNES BY SILO BEND BY M/I HOMES respectfully requests that the Board enter an order (a) determining that Complainant Paul Christian Pratapas' Formal Complaint is frivolous, or (b) in the alternative, dismissing the Formal Complaint with prejudice pursuant to 35 Ill. Admin. Code § 101.500 and 735 ILCS 5/2-619(a)(9), and (c) providing any other relief that this Board deems just.

Respectfully submitted,
SILO BEND AND THE TOWNES BY
SILO BEND BY M/I HOMES


One of its Attorneys

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PAUL CHRISTIAN PRATAPAS,)	
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SILO BEND AND THE TOWNES BY SILO BEND)	
BY M/I HOMES,)	(Enforcement – Water)
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**RESPONDENT SILO BEND AND THE TOWNES BY SILO BEND BY
M/I HOMES’ MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION THAT
THE BOARD DETERMINE THAT THE FORMAL COMPLAINT IS FRIVOLOUS OR,
IN THE ALTERNATIVE, TO DISMISS THE COMPLAINT
PURSUANT TO 735 ILCS 5/2-619(a)(9)**

INTRODUCTION

Since July 2022, Complainant Paul Christian Pratapas (“Pratapas”) has filed over twenty boilerplate complaints against developers and municipal entities alleging water pollution violations at construction sites near his home in Naperville. Pratapas’ *modus operandi* appears to be that he goes to construction sites on rainy days, takes a couple of photographs, and then files a template complaint before this Board against the developer and (sometimes) the municipal entities that own the sites or the third-party inspectors for the sites. Each of the twenty-plus complaints (including a recent complaint filed against Naperville Mayor Steve Chirico in PCB Case No. 2023-077) also alleges that the respondents “likely” committed “fraud” associated with “inspection reports and contractor certifications” as well as “[f]raudulent submission/approval of boiler plate [sic] SWPPP with no intent/ability to comply” Given Pratapas’ serial complaints before this Board and apparent trespasses onto private construction sites, it is ironic that he accuses respondents of boilerplate plans and criminal misconduct.

In this case, Pratapas has filed one of his boilerplate complaints against M/I, which is a developer of a new residential housing community in Lockport, Illinois. The Formal Complaint (“Complaint”), which is attached hereto as Exhibit A, alleges that, on “December 18, 2002 at 1:48pm on a Sunday afternoon”, he observed a water pollution violation, *i.e.*, “toxic concrete washout water and slurry” not being managed on the site and that the concrete washout area “lacks several BMPs.” Pratapas attaches several black and white copies of photographs to the Complaint, which are completely dark and indecipherable. As discussed below, the Board should disregard these photographs as failing to provide any factual information in support of Pratapas’ allegations. For the reasons set forth below, the Board should determine that the Complaint is frivolous, or in the alternative, dismiss the Complaint with prejudice pursuant to 35 Ill. Admin. Code § 101.500 and 735 ILCS 5/2-619(a)(9).

ARGUMENT

I. The Complaint Should Be Determined to Be Frivolous Pursuant to 35 Ill. Admin. Code § 103.212(a)

A. Legal Standard

The Illinois Environmental Protection Act, 415 ILCS 5/1 *et seq.* (the “Act”) authorizes citizens to bring enforcement actions before the Board, alleging violations of the Act or Board regulations. Section 31(d) of the Act provides:

Any person may file with the Board a complaint, meeting the requirements of subsection (c) of this Section, against any person allegedly violating this Act or any rule or regulation thereunder Unless the Board determines that such complaint is duplicative or *frivolous*, it shall schedule a hearing....

415 ILCS 5/31(d) (emphasis supplied). Section 31(c), referred to in the above-quoted passage, in turn states that the complaint “shall specify the provision of the Act or the rule or regulation ... under which such person is said to be in violation, and a statement of the manner in, and the extent

to which such person is said to violate the Act or such rule or regulation” 415 ILCS 5/31(c). The Board’s procedural rules require that a complaint must include the “dates, location, events, nature, extent, duration, and strength of discharges or emissions and consequences alleged to constitute violations” and a “concise statement of the relief that the complainant seeks.” 35 Ill. Adm. Code 103.204(c). Thus, the Act and the Board’s procedural rules “provide for specificity in pleadings”. *Rocke v. PCB*, 78 Ill. App. 3d 476, 481 (1st Dist. 1979).

In assessing the adequacy of pleadings in a complaint, the Board has accordingly stated that “Illinois is a fact-pleading state which requires the pleader to set out the ultimate facts which support his cause of action.” *People v. Blick’s Constr. Co.*, PCB No. 13-43, 2013 Ill. ENV LEXIS 151 *18 (May 16, 2013). “[L]egal conclusions unsupported by allegations of specific facts are insufficient.” *La Salle Nat’l Trust, N.A. v. Vill. of Mettawa*, 249 Ill. App. 3d 550, 557 (2d Dist. 1993). *See also Foxfield Realty v. Kubala*, 287 Ill. App. 3d 519, 522 (2d Dist. 1997) (“a motion to dismiss does not admit conclusions of law or of fact that are not supported by allegations of specific facts which form the basis for such conclusions”). Exhibits attached to pleadings “are considered part of the pleadings, and allegations in the pleadings which conflict with facts disclosed in the exhibits are not admitted as true; rather, the exhibits control. *Foxfield Realty*, 287 Ill. App. 3d at 522.

Within 30 days after being served with a complaint, a respondent may file a motion with the Board to dismiss the complaint on the grounds that the complaint is frivolous or duplicative. 35 Ill. Adm. Code 103.212(b). “Frivolous” means a request for relief that the Board does not have the authority to grant, or a complaint that fails to state a cause of action upon which the Board can grant relief. 35 Ill. Admin. Code 101.202. When ruling on a motion to dismiss, the Board takes all well-pled allegations as true and draws all inferences from them in favor of the non-movant.

Maracic v. TNT Logistics N. Am. Inc., PCB No. 05-212, 2007 Ill. ENV LEXIS 106, *6 (Mar. 15, 2007). Dismissal is proper only if it is clear that no set of facts could be proven that would entitle complainant to relief. *Id.* To determine whether a cause of action has been stated, the entire pleading must be considered. *Mahomet Valley Water Auth. v. Clinton Landfill, Inc.*, PCB No. 13-22, 2013 Ill. ENV LEXIS 283, *55 (Sept. 19, 2013).

B. Respondent's Complaint Must be Determined to be Frivolous Because It Fails to State a Cause of Action Upon Which the Board Can Grant Relief

With vague statements and conclusions unsupported by well-pled factual allegations, Pratapas purports to allege that M/I failed to manage or control concrete washout water in violation of Section 12 (a) and (d) of the Act and 35 Ill. Admin. Code 304.141(b). Section 12 of the Act provides in relevant part:

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, ... or so as to violate regulations or standards adopted by the Pollution Control Board

...

(d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

415 ILCS 5/12(a) & (d). The regulation set forth in 35 Ill. Admin. Code 304.141(b) states:

No person may discharge any pollutant subject to, or which contributes or threatens to cause a violation of, any applicable federal or state water quality standard, effluent standard, guideline or other limitation, promulgated pursuant to the CWA [Clean Water Act] or the Act, unless limitation for such a pollutant has been set forth in an applicable NPDES Permit.

Pratapas is required by the Board's procedural rules to include in the Complaint the "dates, location, events, nature, extent, duration, and strength of discharges or emissions and consequences alleged to constitute violations." 35 Ill. Admin. Code 103.204(c). While Pratapas has alleged a

date and time (“December 18, 2022 at 1:48pm on a Sunday afternoon”) and a location (“16646 S. Sunmeadow Dr., Lockport DR, IL 60441”¹), he does not adequately plead the other required contents of the Complaint. The Complaint is completely devoid of any allegations – factual or otherwise – as to the required “extent, duration or strength” of the offending event. Instead, the Complaint makes conclusions that the area “lacks several BMPs” without supporting, specific facts as to what BMPs are missing. Pratapas also states: “It is clear from looking at the road, dirt has been allowed to enter freely and then it is being run over by a street sweeper. Not what they are built to handle. So, there is dirt mixed with snow throughout the site.” These statements are not facts and instead seem to be Pratapas’ opinions on what may potentially have happened; thus, they do not support a finding of any type of pollution of water or creation of a water hazard. Furthermore, they identify typical conditions at an active construction site, not violations of the Act or NPDES requirements. His conclusions concerning the appropriateness of the street sweeper are plainly hypothetical and specious as they are not founded on any facts whatsoever. Similarly, his conclusion that “vehicles and chemicals [are] improperly stored” with “[s]ome sitting adjacent to inlets on a dirt covered road” lack specific factual support and fail to identify how such things constitute ongoing violations requiring Board action. His conclusion that “[t]here is total disregard for any part of the SWPPP” is also unsupported by any alleged facts. Moreover, the photographs attached to the Complaint do absolutely nothing to support his allegations as they are completely indecipherable.

Pratapas’ statements as to the “consequences” or “bad effects” of the alleged violations are also general, legal conclusions devoid of well-pled factual support. Pratapas first states that “[t]his

¹ This is an incorrect address for the Silo Bend development. (*See* J. Polakow Aff., attached hereto as Ex. B, at ¶ 2.)

development is partially occupied and poses immediate safety risks to the residents and pets. And the local wildlife. The environmental effects of pollution are widely known and accepted.” These vague and sweeping generalizations need not be admitted as true, since they completely lack factual support of any kind. Pratapas continues: “Likely fraud of inspection reports and contractor certifications. Fraudulent submission/approval of boiler plate SWPPP with no intent/ability to comply as approved poses immediate risk to Canadian Geese using the area during foraging.” No facts in the Complaint support any claim of fraud (nor would such a claim be within the Board’s jurisdiction). The conclusion that there is “immediate risk to Canadian Geese” and the statement that Canadian Geese were “using the area during foraging” does not factually support Pratapas’ claims as there is no allegation that geese were in contact with any concrete washout water or harmed in any way. This is also the case for his conclusion as to posed threats to unidentified residents, pets, and wildlife. None of these conclusions are well-pled, factual allegations and the Board need not take them as true nor draw any inferences from them. *La Salle Nat’l Trust, N.A. v. Vill. of Mettawa*, 249 Ill. App. 3d 550, 557 (2d Dist. 1993). Indeed, the Board may strike such conclusions entirely. *Tarkowski v. Belli*, PCB No. 76-55, 1976 Ill. ENV LEXIS 621, *1-2 (Apr. 8, 1976) (striking legal conclusions on its own motion).

In addition, Pratapas’ request for relief #3 (“[i]nvestigation into fraudulent SWPPP inspection reports and contractor certifications”) must be stricken as frivolous, since the request seeks relief that the Board does not have the authority to grant. 35 Ill. Adm. Code 101.202; *United City of Yorkville v. Hamman Farms*, PCB No. 08-96, 2008 Ill. ENV LEXIS 352, *68 (Oct. 16, 2008). The same is true for his request for relief #4 seeking immediate “voiding” of M/I’s permit because “[t]his is the third formal complaint” against M/I and due to M/I’s counsel’s statements in

prior motions in those cases.² As an administrative agency, the Board is a creature of statute, and therefore has only the authority given to it by its enabling act. *Id.* at *66. The Board cannot grant prayers for relief absent explicit statutory authority. *Id.* at *67. *See also Vill. of Montgomery v. Aurora Sanitary Dist.*, PCB No. 79-269, PCB No. 79-269, 1980 Ill. ENV LEXIS 460, *1 (Mar. 20, 1980) (striking portion of prayers for relief requesting that the Board do things which are beyond its statutory authority); *Tarkowski v. Belli*, PCB No. 76-55, 1976 Ill. ENV LEXIS 621, *1-2 (Apr. 08, 1976) (striking portion of prayers for relief that are not within its jurisdiction or scope of authority under the Act).

Given the above, Pratapas has failed to comply with 35 Ill. Admin. Code 103.204(c) by failing to adequately plead facts in support of any cause of action against M/I. Therefore, the Board should determine that the Complaint is frivolous.

II. In the Alternative, the Complaint Should Be Dismissed Pursuant to 735 ILCS 5/2-619(a)(9)

A. Legal Standard

Respondent moves also, in the alternative, to dismiss the Complaint pursuant to 735 ILCS 5/2-619(a)(9) on the grounds that “the claim asserted against the defendant is barred by other affirmative matter avoiding the legal effect of or defeating the claims.” Pursuant to 35 Ill. Admin. Code 101.500, the Pollution Control Board “may entertain any motion the parties wish to file that is permissible under the Act or other applicable law, this Part, or the Code of Civil Procedure.” Thus, the Board may entertain a motion to dismiss pursuant to 735 ILCS 5/2-

² The other two complaints against M/I were also filed by Pratapas, and M/I has moved to dismiss them also as frivolous. *See Pratapas v. Chelsea Manor by M/I Homes*, PCB 2023-057, and *Pratapas v. Willow Run by M/I Homes*, PCB 2023-075. Furthermore, there is of course no authority for Pratapas’ absurd suggestion that the Board could void M/I’s permit as a result of a proper legal position taken by M/I’s counsel in this or any other case before the Board.

619(a)(9). *See People v. Shell Oil Co.*, PCB No. 97-30, 1998 Ill. ENV LEXIS 480, *6 (Sept. 17, 1998) (granting motion to dismiss based upon affirmative matters contained outside the complaint).

The phrase “affirmative matter” encompasses “any defense other than a negation of the essential allegations of the plaintiff’s cause of action.” *Omega Demolition Corp. v. Ill. State Toll Highway Auth.*, 2022 IL App (1st) 210158, ¶ 45. The purpose of a section 2-619 motion to dismiss is to dispose of issues of law and easily proved issues of fact at the outset of litigation. *Jackson v. Kane Cty.*, 2021 IL App (2d) 210153, ¶ 10. Because a section 2-619 dismissal resembles the grant of a motion for summary judgment, the Board must determine whether a genuine issue of material fact precludes the dismissal. *See id.* at ¶ 11. Once the respondent satisfies its initial burden of going forward on a section 2-619(a)(9) motion, the burden shifts to the complainant to establish that the defense is unfounded or that it requires the resolution of an essential element of material fact. *Id.* at ¶

In a Section 2-619 motion to dismiss, while the sufficiency of the complaint is admitted, the “facts asserted which are not of record in the proceeding shall be supported by affidavit.” *See* 35 Ill. Admin. Code 101.242(a); 735 ILCS 5/2-619 (a)(9).

B. The Claim Asserted Against M/I is Barred by Other Affirmative Matter Avoiding the Legal Effect of or Defeating the Claim

Assuming for the sake of argument that the Complaint adequately alleges a cause of action for violations of Section 12 of the Act and 35 Ill. Admin. Code 304.141(b), those claims fail as a matter of law and are defeated by the undisputed “other affirmative matters” discussed below.

The alleged violating actions (for which Pratapas has not alleged any factual allegations) are (1) that M/I has “not managed” concrete washout water and slurry, (2) that “[c]oncrete washout area

lacks several BMPs,” and (3) that “vehicles and chemicals [are] improperly stored” and “sitting adjacent to inlets.”³ The undisputed facts establish just the opposite.

1. The undisputed facts show no violation of 35 Ill. Admin. Code 304.141(b)

The regulation cited in the Complaint, 35 Ill. Admin. Code 304.141(b), states in relevant part:

No person may discharge any pollutant subject to, or which contributes or threatens to cause a violation of, any applicable federal or state water quality standard, effluent standard, guideline or other limitation, promulgated pursuant to the CWA or the Act, *unless* limitation for such a pollutant has been set forth in an applicable NPDES Permit. (emphasis added).

In compliance with the Act and applicable regulations, M/I has a General Permit to Discharge Storm Water Associated with Construction Activities, NPDES Permit No: ILR10ZAAU, effective March 25, 2021, covering the Silo Bend development project (hereinafter, the “NPDES Permit”). (A copy of the NPDES Permit is attached as Ex. 1 to J. Polakow Aff. *See also* J. Polakow Aff., ¶ 3.) The NPDES Permit (Part III, A.3.) states: “The following non-storm water discharges are prohibited by this permit: concrete and wastewater from washout of concrete (unless managed by an appropriate control)” Thus, if there are appropriate controls of non-storm water discharge from concrete washout facilities, such discharges are *not* prohibited by the NPDES Permit and do not constitute a violation of Section 304.141(b) as alleged. *See* 415 ILCS 5/12(f) (“Compliance with the terms and conditions of any permit issued under Section 39(b) of this Act shall be deemed

³ Pratapas also makes sweeping conclusions that “dirt has been allowed to enter [the road] freely” and is mixed with snow and that M/I has signage inviting the public to an “unsafe and unsanitary site.” These statements do not constitute allegations of fact, nor could they constitute violations of the Act or applicable regulations. Dirt mixed with snow on streets is typical at construction sites and is not conclusive as to any pollution condition. Also common are signs inviting interested members of the public to visit a model home at a development site. (*See* J. Polakow Aff. at ¶ 8.) Pratapas’ statements on these issues should be ignored by the Board because they do not allege a violation of any environmental law or regulation.

compliance with this subsection except that it shall not be deemed compliance with any standard or effluent limitation imposed for a toxic pollutant injurious to human health”).

The undisputed facts establish that M/I has implemented and maintained appropriate controls for soil erosion and the management of concrete washout. These controls are set forth in its Stormwater Pollution Prevention Plan (“SWPPP”) for the Silo Bend project. (A copy of the SWPPP is attached to the J. Polakow Aff.as Ex. 2. *See also* J. Polakow Aff., ¶ 4.) According to Jason Polakow, M/I’s executive overseeing the Silo Bend project (J. Polakow Aff. at ¶ 2), the following types of controls are in place at the Silo Bend site:

At the Silo Bend project, after concrete is poured, the chutes of the ready-mix concrete trucks and hoppers of concrete pump trucks must be washed out to remove the remaining concrete before it hardens. The best management practice objectives of the SWPPP for the concrete washout area is to collect and retain all of the concrete washout water and solids in leak proof containers, which is a metal roll-off bin at the Silo Bend site. The metal roll-off bin is designed to securely contain wash water and solids and is portable and reusable. Roll-off providers offer recycling services for the project, such as, picking up the roll-off bins after the wash water has evaporated or has been vacuumed off and the solids have hardened, replacing them with empty washout bins, and delivering the hardened concrete to a recycler rather than a landfill. The concrete washout facility is in a location that provides convenient access to concrete trucks near the area where concrete is being poured. The concrete washout container is a metal roll-off bin placed on a mix of three (3)-inch stone and gravel. The washout containment area is not located within fifty (50) feet of storm drains, open ditches, or waterbodies. The containers are inspected daily by M/I Homes Construction Managers and during the weekly stormwater pollution prevention program (SWPPP) inspections conducted by the M/I Homes third-party inspector, Gary R. Weber and Associates (GRWA). GRWA also inspects the site and containers after any rainfall event greater than a half-inch (0.50”) of rain. All inspections check for leaks, identify potential damage to the containers from construction activities, and determine whether the washout container has been filled to over seventy-five (75) percent capacity. When the container is filled to over seventy-five (75) percent of its capacity, the wash water is vacuumed off or allowed to evaporate to avoid overflows. Then when the remaining solids have hardened, they are removed and recycled. Damages to the container are repaired promptly. Before heavy rains, the container’s liquid levels are lowered, or the container is covered to avoid an overflow during a rainstorm.

(*Id.* at ¶ 6). Mr. Polakow has further testified and affirmed that, “[t]he washout area is located approximately sixty-two (62) feet away from the nearest storm inlet....[and] is located approximately three hundred and six (306) feet away from the nearest detention basin. (*Id.* at ¶ 7). *See also* J. Polakow Aff. at Ex. 4 and Ex. 5. Further, the Will-South Cook Soil & Water Conservation District approved M/I’s Erosion Control Plan, which is part of the SWPPP, finding that the “plan meets the technical standards.” (J. Polakow Aff., ¶ 5 and Ex. 3 attached thereto.) Thus, the concrete washout is “managed by appropriate control” in compliance with the NPDES permit and negates any possible finding of a violation of 35 ILCS 304.141(b).

Not only does Pratapas fail to identify how and what specific vehicles or chemicals are “improperly” stored at the Silo Bend site, he also fails to specify the governing NPDES Permit or SWPPP provisions supposedly violated. The SWPPP requires that M/I minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters, and M/I’s compliance with this requirement has been established as discussed above. *See*, Aff. of J. Polakow, Ex. 2 at F (Pollution Prevention). The NPDES Permit and SWPPP do not mandate where or how vehicles must be stored. The SWPPP also requires M/I to “minimize the exposure of fuel, oil hydraulic fluid and other petroleum products by storing them in covered areas or containment areas.” *Id.* There is no evidence that M/I has failed to comply with that requirement at Silo Bend. Pratapas’ vague conclusions to the contrary are insufficient to establish any purported violations. Therefore, Pratapas’ claims fail and must be dismissed.

2. The undisputed facts show no violation of Section 12(a) or (d) of the Act

In order to prevail on its claim that M/I violated Section 12(a) and (d) of the Act, Pratapas must be able to establish that M/I disregarded the above controls allowing an alleged discharge on

December 18, 2022 to “cause or tend to cause water pollution in Illinois” or to be deposited on land “in such place and manner so as to create a water pollution hazard.”

First, Pratapas’ has failed to allege any facts to support his conclusion that any washout water or slurry or dirt is “toxic.” Second, his general conclusions that washwater and slurry are “not managed”, that the concrete washout area “lacks several BMPs”, and that dirt runs “freely” at the site are not factually supported and are clearly contradicted by the SWPPP for the project and the testimony of Jason Polakow. The Will-South Cook SWCD performs monthly inspection of the site. (J. Polakow Aff. at ¶ 5.) Moreover, the NPDES Permit provides that if controls need repair or maintenance or some other type of corrective action, such actions must be performed “as soon as possible and documented within 7 days of an Inspection Report or report of noncompliance” and “if it is infeasible to complete the installation or repair within the 7-day timeframe” then the corrective action should be completed “as soon as feasible after the 7-day timeframe.” (*Id.* at ¶ 5 and Ex. 1 thereto at ¶ 5 (Corrective Actions).) So, even if Pratapas’ allegations had any factual support – which they do not – there is no allegation or evidence that the claimed violations were not corrected as provided for in the NPDES Permit.

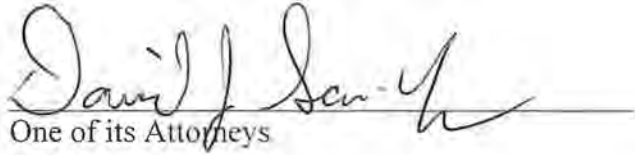
The above undisputed other affirmative matters require dismissal of the Complaint pursuant to 735 ILCS 5/2-619 (a)(9).

CONCLUSION

For these reasons, M/I’s Motion that the Board Determine that the Formal Complaint is Frivolous or, in the Alternative, to Dismiss the Complaint Pursuant to 735 ILCS 5/2-619(a)(9) should be granted.

Respectfully submitted,

SILO BEND AND THE TOWNES
BY SILO BEND BY M/I HOMES


One of its Attorneys

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Attorneys for Respondent Silo Bend and The Townes by Silo Bend by M/I Homes

FORMAL COMPLAINT

Before the Illinois Pollution Control Board

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)	
Paul Christian Pratapas)	
)	
)	
Complainant,)	
)	
v.)	PCB 20 -
)	<i>[For Board use only]</i>
)	
Silo Bend and The Townes by Silo Bend:)	
by M/I Homes)	
)	
Respondent)	
)	

**EXHIBIT
A**

1. Your Contact Information

Name: Paul Christian Pratapas
Street Address: 1330 E. Chicago Ave. #110
Naperville
County: DuPage
State: IL
Phone Number: 630.210.1637

2. Name and Address of the Respondent (Alleged Polluter)

Name: M/I Homes
Street Address: 2135 City Gate Ln Suite 620
Naperville, IL 60563
County: DuPage
State: Illinois
Phone Number: 630.426.1370

3. Describe the type of business or activity that you allege is causing or allowing pollution

M/I Homebuilders is building a large complex with what looks like two NPDES Permitw. A new neighborhood of single family and a neighborhood of multifamily housing without inadequate and required BMPs

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

Water. Toxic concrete washout water and slurry prohibited from making contact with soil and migrating to surface waters or into the ground water not managed. Concrete washout area lacks several BMPs. It is clear from looking at the road, dirt has been allowed to enter freely and then it is being run over by a street sweeper. Not what they are built to handle. So, there is dirt mixed into the snow throughout the site. There are vehicles and chemicals improperly stored. Some sitting adjacent to inlets on a dirt covered road. There is not any required SWPPP signage at either development site.

There are signs beginning 1.5 miles away inviting the public to come to the unsafe and unsanitary site. There are signs at lots inviting guests to view the development.

There is total disregard for any part of the SWPPP which took topography into account. The areas at the very top have dirt everywhere and there is a clear path into the road and down into the inlet(s)

6. Timeframe of pollution

Photographed December 18, 2022 at 1:48pm on a Sunday afternoon.

Location of Pollution: 16646 S Sunmeadow Dr., Lockport DR, IL 60441

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

This development is partially occupied and poses immediate safety risks to the residents and pets. And the local wildlife. The environmental effects of the pollution are widely known and accepted.

Likely fraud of inspection reports and contractor certifications. Fraudulent submission/approval of boiler plate SWPPP with no intent/ability to comply as approved poses immediate risk to Canadian Geese using the area during foraging.

8. Describe the relief that you seek from the Board.

1. Find that Respondent has violated 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. Investigation into fraudulent SWPPP inspection reports and contractor certifications
4. This is a third formal complaint with increasing disregard for permit obligations. MI Homes's attorney attempted to ridicule complainant in a previous filing with The Board for exercising a fundamental constitutional right, therefore I request immediately voiding the permit for the site until such time as the builder ceases to pollute the surrounding groundwater and surface water and any SWPPP deficiencies related to signage, certifications, inspections, material storage and designated concrete washout area design/implementation are fixed
5. An order stating SWPPP plan(s) for phasing and concrete washout areas must be implemented as presented and approved unless documented otherwise with standards being found in the Illinois Urban Manual.

- 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.

11. 
 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

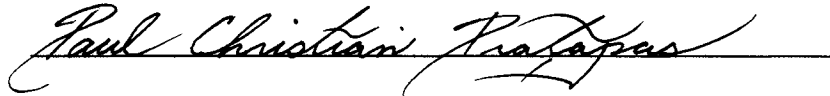
My Commission Expires: _____

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. #110

City/State/Zip: Naperville, IL 60540

Date: 12/19/2022

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). 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).

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.*]

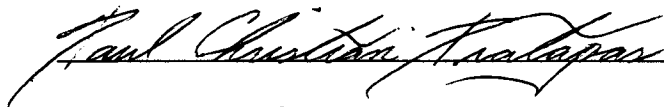
C. _____ Personal service and I made the personal delivery on _____ [month/date], 20___, by the time of ___:___ AM/PM.

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.

RESPONDENT'S ADDRESS:

Name: M/I Homes
Street: 2135 City Gate Ln #620
City/State/Zip: Naperville, IL 60563



Complainant's Signature

Street: 1330 E. Chicago Ave. #110

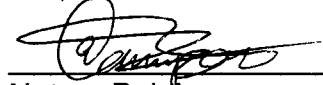
City, State, Zip Code: Naperville, IL 60540

Date: 12/19/2022

Subscribed to and sworn before me

this 19 day

of December, 2022.



Notary Public

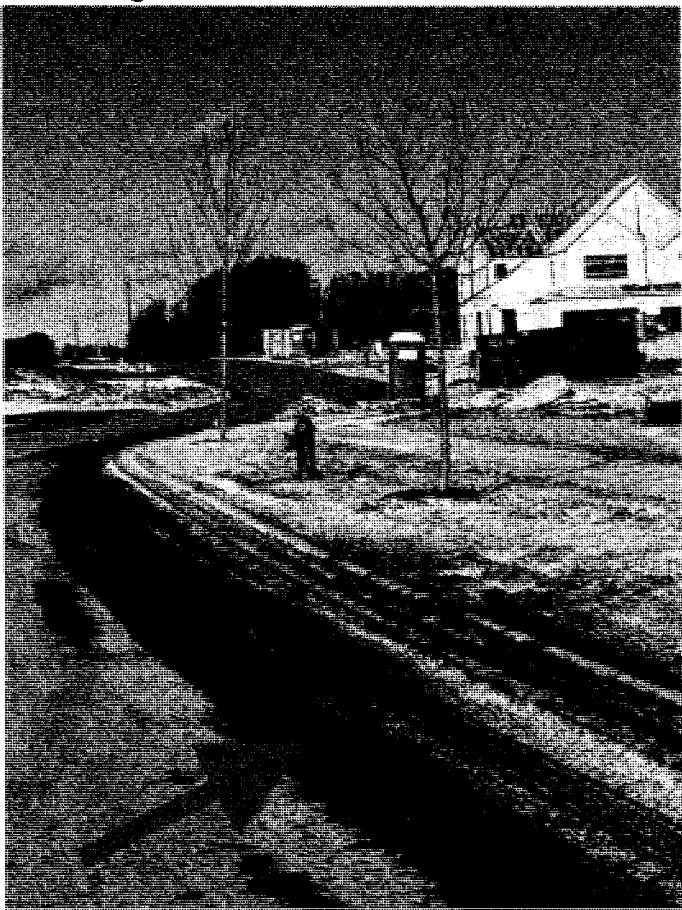


My Commission Expires: 9/6/2026

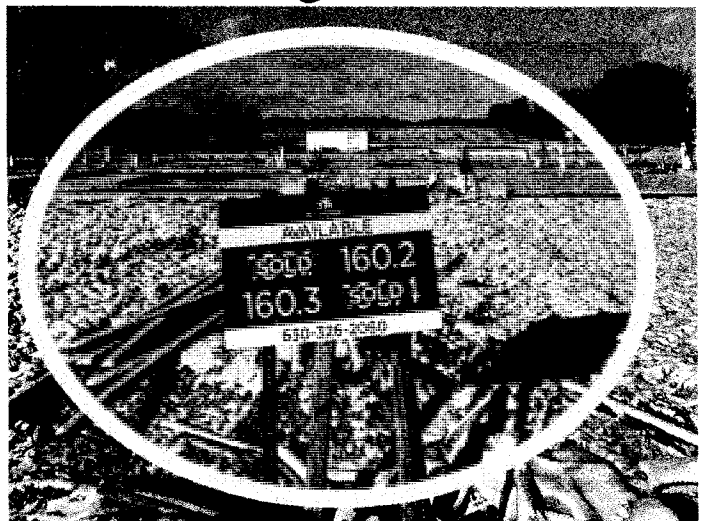
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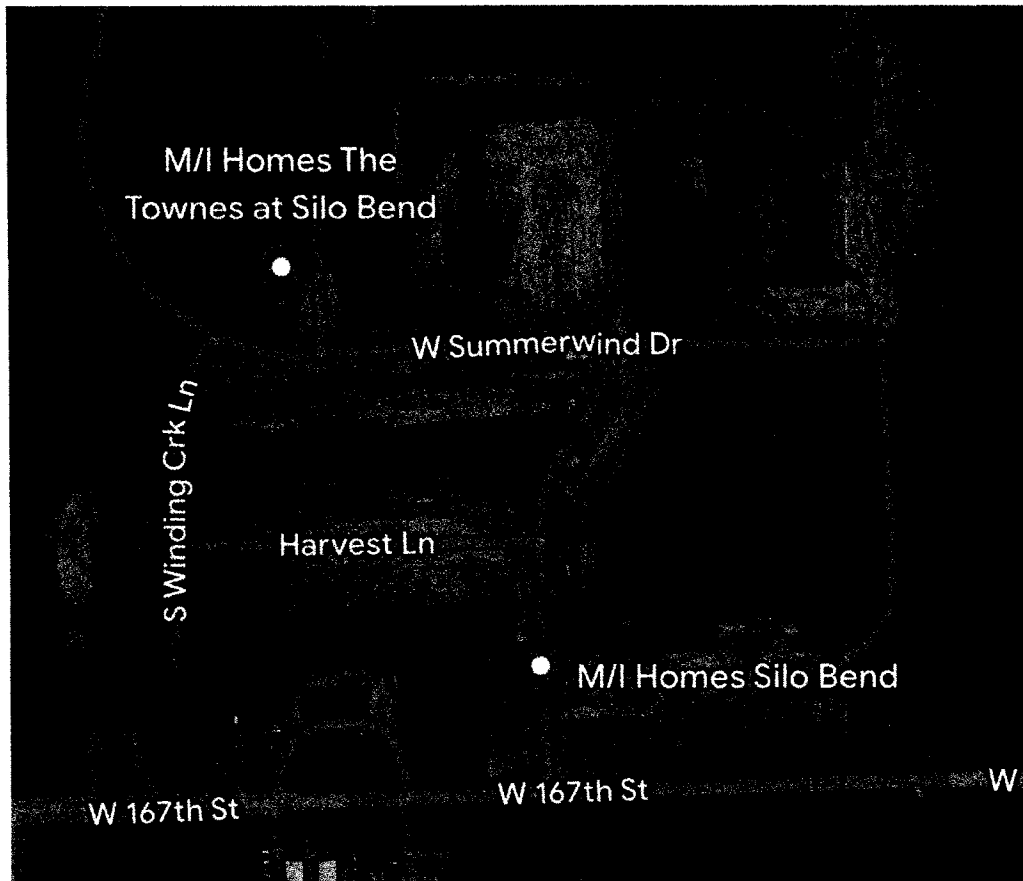


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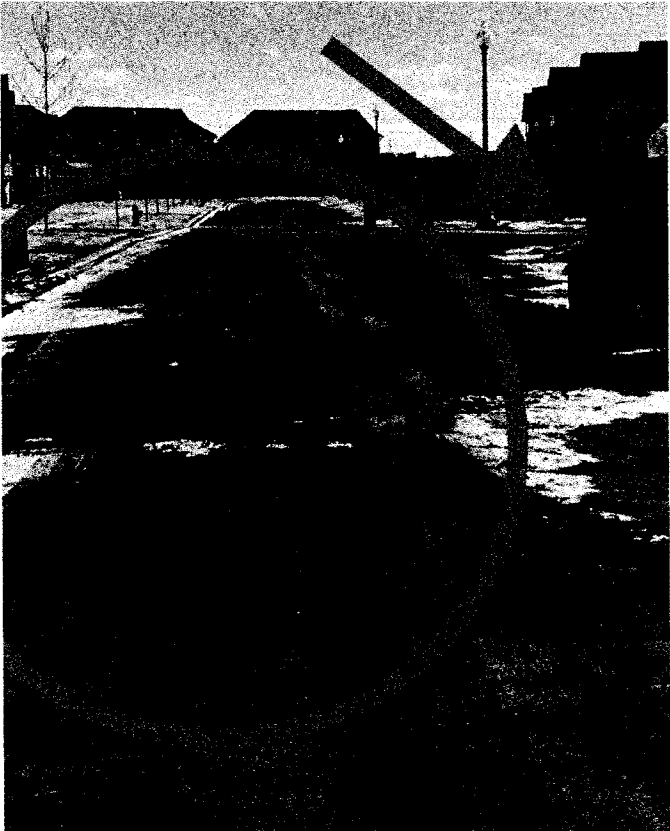




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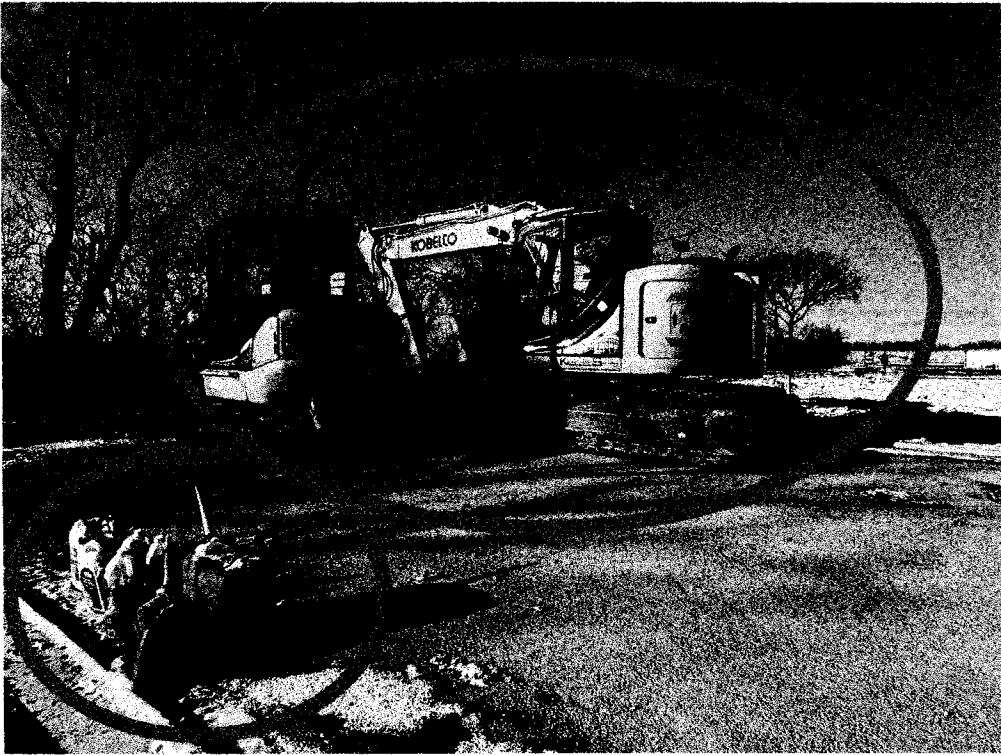
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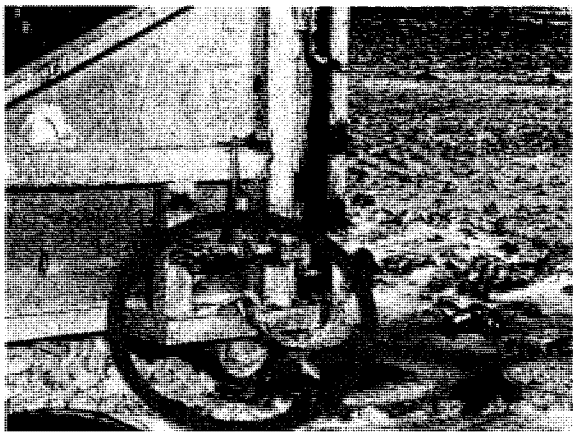
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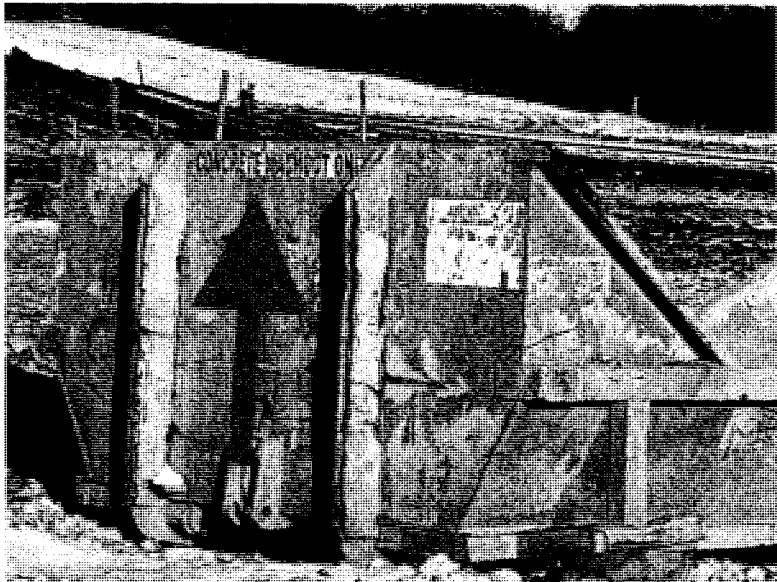
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M



N

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PAUL CHRISTIAN PRATAPAS,)	
)	
Complainant,)	
)	
v.)	No. PCB 2023-075
)	
SILO BEND AND THE TOWNES BY)	
SILO BEND BY M/I HOMES,)	(Enforcement – Water)
)	
Respondent.)	

AFFIDAVIT OF JASON A. POLAKOW, P.E.

I, Jason A. Polakow, P.E., a resident of Illinois and being over 18 years of age, declares under penalty of perjury that the following is true and correct:

1. I am currently employed as the Director of Land Development at M/I Homes of Chicago, LLC (“M/I Homes”).

2. I am the executive at M/I Homes overseeing the Silo Bend development, located at 15220-15454 W 167th Street, Lockport, Illinois 60441.

3. In connection with the Silo Bend development, M/I Homes has a General Permit to Discharge Storm Water Associated with Construction Activities (“NPDES Permit”), issued by the Illinois Environmental Protection Agency (IEPA), a true and correct copy of which is attached as Exhibit 1 to this Affidavit.

4. In accordance with Part IV of the NPDES Permit, M/I Homes has a Stormwater Pollution Prevention Plan (“SWPPP”), which includes an Erosion Control Plan which has specifications for erosion and sediment controls, including controls related to concrete washout operations. A true and correct copy of the SWPPP for the Silo Bend development is attached as Exhibit 2 to this Affidavit.

**EXHIBIT
B**

5. In a letter addressed to me dated February 5, 2021, the Will-South Cook Soil & Water Conservation District stated that its review of M/I's Erosion Control Plan found that the "plan meets the technical standards of the Will-South Cook SWCD for SESC and is hereby approved." A true and correct copy of this letter is attached as Exhibit 3 to this Affidavit. The Will-South Cook SWCD performs monthly inspections of the site and pursuant to Paragraph 5 of the SWPPP any controls identified as needing repair or maintenance are performed "as soon as possible and documented within 7 days" of the inspection.

6. At the Silo Bend project, after concrete is poured, the chutes of the ready-mix concrete trucks and hoppers of concrete pump trucks must be washed out to remove the remaining concrete before it hardens. The best management practice objectives of the SWPPP for the concrete washout area is to collect and retain all of the concrete washout water and solids in leak proof containers, which is a metal roll-off bin at the Silo Bend site. The metal roll-off bin is designed to securely contain wash water and solids and is portable and reusable. Roll-off providers offer recycling services for the project, such as, picking up the roll-off bins after the wash water has evaporated or has been vacuumed off and the solids have hardened, replacing them with empty washout bins, and delivering the hardened concrete to a recycler rather than a landfill. The concrete washout facility is in a location that provides convenient access to concrete trucks near the area where concrete is being poured. The concrete washout container is a metal roll-off bin placed on a mix of three (3)-inch stone and gravel. The washout containment area is not located within fifty (50) feet of storm drains, open ditches, or waterbodies. The containers are inspected daily by M/I Homes Construction Managers and during the weekly stormwater pollution prevention program (SWPPP) inspections conducted by the M/I Homes third -party inspector, Gary R. Weber and Associates (GRWA). GRWA also inspects the site and containers after any rainfall event greater

than a half-inch (0.50") of rain. All inspections check for leaks, identify potential damage to the containers from construction activities, and determine whether the washout container has been filled to over seventy-five (75) percent capacity. When the container is filled to over seventy-five (75) percent of its capacity, the wash water is vacuumed off or allowed to evaporate to avoid overflows. Then when the remaining solids have hardened, they are removed and recycled. Damages to the container are repaired promptly. Before heavy rains, the container's liquid levels are lowered, or the container is covered to avoid an overflow during a rainstorm.

7. The washout area is located approximately sixty-two (62) feet away from the nearest storm inlet. See, distance map attached as Exhibit 4 to this Affidavit. The washout area is located approximately four hundred and three hundred and six (306) feet away from the nearest detention basin. See, distance map attached as Exhibit 5 to this Affidavit.

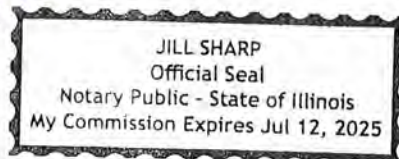
8. Marketing signage is used to direct potential homebuyers to the Silo Bend M/I Homes model. The potential homebuyer then meets with an M/I Homes New Home Consultant, who is located in the Silo Bend model. If the potential homebuyer wants to see a specific lot or visit the site, they are accompanied by the New Home Consultant. The sales model parking lot is located approximately 318 feet from Silo Bend's main entrance. The concrete washout is located over 1,000 feet away from Silo Bend's main entrance. The sales model parking lot is located approximately 980 feet away from the concrete washout.



Jason A. Polakow, P.E.

Subscribed and sworn to before me
this 11th day of January 2023.


NOTARY PUBLIC





Electronic Filing: Received Clerk's Office 01/12/2023
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

Project/Site: Silo Bend, Lockport, IL, Will County
NPDES Permit No: ILR10ZAAU

03/25/2021

We have reviewed your application requesting coverage for Silo Bend located at 15220-15454 W 167th Street, Lockport, IL 60441, and determined that storm water discharges associated with industrial activity from construction sites are appropriately covered by the [General NPDES Permit](#) issued by the Agency. Your discharge is covered by this permit effective as of the date of this letter. A copy of the NOI submission can be downloaded at this link: <https://cdxnodengn.epa.gov/net-cgp/api/public/v1/form/1317683/attachment/zip>.

The Permit includes special conditions regarding the application, Storm Water Pollution Prevention Plan and reporting requirements. Failure to meet any portion of the Permit could result in civil and/or criminal penalties. The Agency is ready and willing to assist you in interpreting any of the conditions of the Permit as they relate specifically to your discharge.

As a Permit Holder, it is your responsibility to:

1. Submit a modified Notice of Intent of any substantial modification to the project such as address changes, new contractors, area coverage, or additional discharges to Waters of the United States within 30 days.
2. Submit a Notice of Termination once the site has completed final stabilization and all storm water discharges from construction activities that are authorized by this Permit are eliminated.

Please reference your permit number ILR10ZAAU in all future correspondence. Should you have any questions concerning the Permit, please contact the Permit Section at (217) 782-0610.

Sincerely,

Sanjay Sofat
Manager, Permit Section
Division of Water Pollution Control

Link to: [General NPDES Permit No. ILR10](#)

cc:

2125 S. First Street, Champaign, IL 61820 (217) 278-5800
2009 Mall Street Collinsville, IL 62234 (618) 346-5120
9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000
595 S. State Street, Elgin, IL 60123 (847) 608-3131

2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
4302 N. Main Street, Rockford, IL 61103 (815) 987-7760

PLEASE PRINT ON RECYCLED PAPER

**EXHIBIT
B-1**

F. POLLUTION PREVENTION

Electronic Filing: Received, Clerk's Office 01/12/2023

THE PERMITTEE SHALL DESIGN, INSTALL, IMPLEMENT, AND MAINTAIN EFFECTIVE POLLUTION PREVENTION MEASURES TO MINIMIZE THE DISCHARGE OF POLLUTANTS. AT A MINIMUM, SUCH MEASURES MUST BE DESIGNED, INSTALLED, IMPLEMENTED AND MAINTAINED TO:

- a. MINIMIZE THE DISCHARGE OF POLLUTANTS FROM EQUIPMENT AND VEHICLE WASHING, WHEEL WASH WATER, AND OTHER WASH WATERS. WASH WATERS MUST BE TREATED IN A SEDIMENT BASIN OR ALTERNATIVE CONTROL THAT PROVIDES EQUIVALENT OR BETTER TREATMENT PRIOR TO DISCHARGE.**
- b. MINIMIZE THE EXPOSURE OF BUILDING MATERIALS, BUILDING PRODUCTS, CONSTRUCTION WASTES, TRASH, LANDSCAPE MATERIALS, FERTILIZERS, PESTICIDES, HERBICIDES, DETERGENTS, SANITARY WASTE, AND OTHER MATERIALS PRESENT ON THE SITE TO PRECIPITATION AND TO STORM WATER. MINIMIZATION TO EXPOSURE IS NOT REQUIRED FOR ANY PRODUCT OR MATERIALS WHERE THE EXPOSURE TO PRECIPITATION AND TO STORMWATER WILL NOT RESULT IN A DISCHARGE OF POLLUTANTS, OR WHEN EXPOSURE OF A SPECIFIC MATERIAL OR PRODUCT POSES LITTLE RISK OF STORMWATER CONTAMINATION (SUCH AS FINAL PRODUCTS AND MATERIALS INTENDED FOR OUTDOOR USE).**
- c. MINIMIZE THE EXPOSURE OF FUEL, OIL HYDRAULIC FLUID AND OTHER PETROLEUM PRODUCTS BY STORING IN COVERED AREAS OR CONTAINMENT AREAS.**
- d. MINIMIZE THE DISCHARGE OF POLLUTANTS FROM SPILLS AND LEAKS AND IMPLEMENT CHEMICAL SPILL AND LEAK PREVENTION AND RESPONSE PROCEDURES.**

G. OTHER CONTROLS

- a. WASTE DISPOSAL. NO SOLID MATERIALS, INCLUDING BUILDING MATERIALS, SHALL BE DISCHARGED TO WATERS OF THE UNITED STATES, EXCEPT AS AUTHORIZED BY A SECTION 404 PERMIT.**
- b. THE PLAN SHALL ENSURE AND DEMONSTRATE COMPLIANCE WITH APPLICABLE STATE AND/OR LOCAL WASTE DISPOSAL, SANITARY SEWER OR SEPTIC SYSTEM REGULATIONS.**
- c. FOR CONSTRUCTION SITES THAT RECEIVE CONCRETE OR ASPHALT FROM OFF-SITE LOCATIONS, THE PLAN MUST IDENTIFY AND INCLUDE APPROPRIATE CONTROLS AND MEASURES TO REDUCE OR ELIMINATE DISCHARGES FROM THESE ACTIVITIES.**
- d. THE PLAN SHALL INCLUDE SPILL RESPONSE PROCEDURES AND PROVISIONS FOR REPORTING IF THERE ARE RELEASES IN EXCESS OF REPORTABLE QUANTITIES.**
- e. THE PLAN SHALL ENSURE THE REGULATED HAZARDOUS OR TOXIC WASTE MUST BE STORED AND DISPOSED IN ACCORDANCE WITH ANY APPLICABLE STATE AND FEDERAL REGULATIONS.**

H. BEST MANAGEMENT PRACTICES FOR POST-CONSTRUCTION STORM WATER MANAGEMENT



Leadership in Resource Management Since 1946

1201 S. Gougar Rd • New Lenox, IL 60451
(815) 462-3106 • Fax (815) 462-3176
www.will-scookswcd.org

Jason Polakow
M/I Homes of Chicago
400 East Diehl Rd., Suite 230
Naperville, IL 60563

February 5, 2021

RE: Erosion Control Plan Review
ACOE# LRC-2020-444
WSCSWCD# 20-573
Silo Bend

Dear Mr. Polakow:

We have reviewed the documents dated January 29, 2021 as they relate to erosion control measures pertaining to the above-mentioned project. The plan meets the technical standards of the Will-South Cook SWCD for SESC and is hereby approved.

Please keep a copy of the approved documents on site at all times for review, upon request, by the Will-South Cook SWCD or any other authorized agency. Please also notify our office of the preconstruction meeting or at the start of work.

If you have any questions, please contact Dan Jay at (815) 462-3106, ext. 3.

Sincerely,
Will / South Cook SWCD

A handwritten signature in black ink, appearing to read 'Dan Jay', with a large loop at the end.

Daniel Jay, P.E., CFM, CPESC
Resource Conservationist

cc: Kathleen Chernich, ACOE
Michael May, Cemcon

**EXHIBIT
B-3**



**EXHIBIT
B-4**



**EXHIBIT
B-5**