

Before the Illinois Pollution Control Board

PAUL CHRISTIAN PRATAPAS,)	
an American)	
)	
<i>Complainant,</i>)	
)	PCB 2023-073
v.)	
)	
CADILLAC OF NAPERVILLE,)	
And)	
JOSEPH NICOLAS CONSTRUCTION)	
)	
<i>Respondents</i>)	

PROOF OF SERVICE

PLEASE TAKE NOTICE that on January 23, 2023, we filed before the Illinois Pollution Control Board, Respondent’s Motion to Dismiss and Appearance, copies of which is herewith served upon you.

Respectfully submitted,

/s/ Ryan T. Johnson
Attorney for Respondent

Ryan T. Johnson
ROBBINS DIMONTE, LTD.
180 N. LaSalle St.
Ste. 3300
Chicago, IL 60601
PH: 312-782-9000
E: rjohnson@robbinsdimonte.com

CERTIFICATE OF SERVICE

I, Isra Jumah, a non-attorney, hereby certify that I served copies of the foregoing, Respondent’s Motion to Dismiss and Appearance upon:

Paul Christian Pratapas
1330 E. Chicago Ave.
Naperville, IL 60540
paulpratapas@gmail.com

via email at the email address.

/s/ Isra Jumah

Before the Illinois Pollution Control Board

PAUL CHRISTIAN PRATAPAS,)
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Complainant,)
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v.)
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CADILLAC OF NAPERVILLE,)
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JOSEPH NICOLAS CONSTRUCTION)
)
Respondents)

PCB 2023-073

APPEARANCE

Respondent, JOSEPH NICOLAS CONSTRUCTION, by and through his attorney, Ryan T. Johnson of Robbins DiMonte, Ltd., hereby enter his appearance.

Respectfully submitted,

/s/ Ryan T. Johnson
Attorney for Respondent

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MOTION TO DISMISS

NOW COMES THE Respondent, Joseph Nicholas Construction (“JNC”) by and through counsel Robbins Dimonte, Ltd., and moves the Board for dismissal pursuant to 45 ILCS 5/31(d)(1) and 35 Ill. Adm. Code 101.202.

FACTS

1. Complainant Paul Christian Pratapas (“Complainant”), a known “Resident Inspector” to local government agencies, has filed a citizen complaint with the Illinois Pollution Control Board (IPCB) against JNC alleging violations of 415 ILCS 5.12(a) and 415 ILCS 5/12(d). See Complaint, para. 4.
2. Complainant asks for the following relief:
 - a. Find that Respondent has violated their permit and The Act;
 - b. Assess a maximum civil penalty;
 - c. An order stating plans for mobile mortar mixers with and/or without reservoirs [sic!] require ground BMPs/washout areas and must be implemented as

presented and approved unless documented otherwise with standards being found in the Illinois Urban Manual;

- d. Voiding permits for the site until such time as the builder ceases to pollute the surrounding groundwater and surface water and Respondents demonstrate an ability to comply with the approved and known guidelines for concrete/mortar washout;
 - e. An order stating Joseph Nicholas Construction cannot mix/pour any more concrete/mortar until demonstrating the ability to comply with relevant environmental regulations;
 - f. A study ordered examining rates of electrical grid expansion in IL to accommodate new customers (domestic v. immigrants) against modes of power generation in IL and their pollution profile(s) against rate of electric car purchases against use of public transportation against implementation of walkable communities;
 - g. For the board to give an opinion on Illinois rate payers funding pollution under the guise of utility energy efficient programs. See Complaint, para. 8(1)-(7).
3. Complainant also alleges JNC's work in constructing a new Cadillac dealership is "connected to other polluting activities. Such as, assuming electric cars get filled with electricity from clean sources and misleading children and other uninformed individuals regarding these claims.". Complaint para. 7.

ARGUMENT

4. Pursuant to 45 ILCS 5/31(d)(1) and 35 Ill. Adm. Code 101.202 the IPCB should dismiss this complaint on the grounds that it is frivolous. As noted above the complainant has

- requested such relief as JNC “demonstrating the ability to comply with relevant environmental regulations”. Complaint para. 8(5). Complainant has also asked that the IPCB perform a study on electrical grid expansion and to give an opinion “on Illinois rate payers funding pollution under the guise of utility energy efficient programs.” Complaint para. 8(6)(7). The IPCB does not have the authority to grant any of the relief requested.
5. Further demonstrating the frivolous nature of the complaint, Mr. Pratapas requested the City of Naperville, Illinois inspect the site, which it did on January 9, 2023. As noted in the attached correspondence, the City “does not believe there are any code violations onsite” nor any “S.E.S.C. violations either”. **Exhibit “A”**. Pursuant to the inspection based upon Mr. Pratapas’ complaint, the City of Naperville “recommended closing the case.” *Id.*
 6. This Complaint is not only frivolous and harassing in nature, but has also been found completely without merit by the local investigative agency and should be dismissed in its entirety with prejudice by this Board.

/s/ Ryan T. Johnson
Attorney for Respondent

Ryan T. Johnson
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EXHIBIT A

From: Fano, Raymund
Sent: Monday, January 9, 2023 2:09 PM
To: Novack, William <NovackW@naperville.il.us>
Cc: Felstrup, Paul <FelstrupP@naperville.il.us>; Wilson, Marc <WilsonM@naperville.il.us>; shill@josephnicholasconstruction.com
Subject: RE: Continued violations, Naperville Cadillac/Joseph Nicholas

Bill,

Marc and I stopped by the Cadillac site this morning to investigate Mr. Pratapas' claims.

Based on our inspection, I observed the following:

- The construction area is a good distance away from the ROW/parkway of Quincy and Ogden.
- The construction area is enclosed and barricaded by a green construction fence.
- There are no storm drains in the construction area.
- There are no exposed soil/earth in the construction area. All of the pavement surfaces are either gravel, asphalt or concrete.
- A green metal dumpster located approximately 50' west of the concrete-making machine was observed. Refer to attached pictures and below. The general contractor for Joseph Nicholas Construction, Steve Hill, approached me afterwards. He shared that they used the metal dumpster as their concrete washout facility.
- The pavement surface where the green metal dumpster is located is asphalt. It looks like exposed soil from the picture but it's actually asphalt.

Marc does not believe there are any code violations onsite. I don't see any engineering issues or S.E.S.C. violations either.

The one recommendation I made to Steve Hill, and he has been copied on this email, is that he should consider moving the washout facility closer to the concrete making facility.

Since there are no Code or S.E.S.C. violations, I recommend closing this case. Let me know if you have any questions or want to discuss further.

<image001.jpg><image002.jpg>

Raymund F. Fano, P.E., CFM

Project Engineer | Transportation, Engineering and Development Business Group

City of Naperville | 400 S. Eagle St. Naperville, IL 60540

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