

AFFIDAVIT OF SERVICE

I, the undersigned, certify that I have served on the date of January 25, 2023, the attached *Respondent Wille Bros. Company's Motion to Dismiss the Complaint as Frivolous* upon the following persons by depositing the document in a U.S. Postal Service mailbox in Burr Ridge, Illinois, by the time of 5:00 p.m. with proper postage or delivery charges prepaid:

Paul Christian Pratapas
1330 E. Chicago Avenue
Naperville, IL 60563

DuPage County Sheriff
Attn: Civil Division
501 N. County Farm Road
Wheaton, IL 60187

_____/s/ Richard J. Nogal
Richard J. Nogal Attorney for Wille Bros. Company

Richard J. Nogal (rjn@gsrnh.com)
Andrew Leuchtmann (axl@gsrnh.com)
Goldstine, Skrodzki, Russian,
Nemec and Hoff, Ltd.
835 McClintock Drive, Second Floor
Burr Ridge, IL 60527
Telephone: (630) 655-6000
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ILLINOIS POLLUTION CONTROL BOARD

PAUL CHRISTIAN PRATAPAS,)
an American,)
)
Plaintiff,)
)
vs.) No. PCB 2023-076
)
WILLE BROS. COMPANY;)
)
AND)
)
DUPAGE COUNTY SHERIFF,)
)
Respondents.)

RESPONDENT’S MOTION TO STRIKE THE COMPLAINT AS FRIVOLOUS

Respondent, WILLE BROTHERS COMPANY, by its attorneys, Goldstine, Skrodzki, Russian, Nemeč and Hoff, Ltd., pursuant to 415 ILCS 5/31(d)(1), and 35 Ill. Admin. Code 101.202, and for its Motion to Strike the Complaint as Frivolous, states as follows:

I. Background

Plaintiff, Paul Christian Pratapas (“Pratapas”), filed a formal complaint with the Pollution Control Board Clerk’s Office on December 12, 2022. (Ex. 1 - Complaint) The Complaint alleges that Wille Brothers Company (“Wille Bros.”) violated 415 ILCS 5/12 (a) and (d) on July 27, 2020. *Id.* Not only is the Complaint premised on an event that occurred over two years ago, but it merely states that Pratapas “noticed a skid steer with the scoop full of concrete washout, concrete washout on the side of the [sic] Plank Rd and a concrete truck on site”, and that “there were no concrete washout facilities on site”. *Id.* The rest of the Complaint concerns Pratapas’ efforts to obtain a permit number while speaking in broad generalities about the DuPage County Sheriff’s Office, water pollution, and industry standards. Considering the fact that there were other contractors

working on the site, and the fact that Wille Bros. has never owned a skid steer (Ex. 2 - Jarchow Affidavit), the accusations in the Complaint, even when taken in the light most favorable to the Plaintiff, do not even amount to a scintilla of evidence that a violation was committed by Wille Bros. Therefore, the Complaint has not pled an adequate factual basis upon which the Board could find that a violation has been committed. Thus, it follows that the requested remedies, from criminal charges to the suspension of all contracts in Illinois, are also without a basis in the pleadings and are frivolous.

II. Legal Standard

A. Procedure

The Complaint was filed December 12, 2022, well over two years after July 27, 2020, the date of the alleged violation. Generally, “the respondent must file an answer within 60 days after receipt of the complaint if respondent wants to deny any allegations in the complaint.” 35 Ill. Adm. Code 103.204(d). Motions that a citizen’s complaint is “duplicative” or “frivolous” may be made within 30 days of the receipt of the complaint. 35 Ill. Adm. Code 103.212(b). Timely filing of such a motion will stay the 60 day time period for filing an answer. *Id.* The envelope delivering the Complaint to Wille Bros. was post-marked December 23, 2022. (Ex. 3 - Envelope) Wille Bros. received the envelope sometime on December 27, 2022. (Ex. 2 - Jarchow Affidavit) Therefore, this motion has been timely filed in accordance with Pollution Control Board Procedures.

B. Frivolous

“‘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. Adm. Code 101.202. The Board has interpreted its own rule against frivolous complaints as

proscribing complaints which fail to state a cause of action upon which relief may be granted, even if all of the allegations were proved.” *City of Des Plaines v. Metropolitan Sanitary District of Greater Chicago*, 60 Ill. App. 3d 995, 999 (1st Dist. 1978) (citations and parentheticals omitted).

The Board’s procedural rules codify the requirements for the contents of a complaint, including:

- 1) A reference to the provision of the Act and regulations that the respondents are alleged to be violating;
- 2) The dates, location, events, nature, extent, duration, and strength of discharges or emissions and consequences alleged to constitute violations of the Act and regulations. The Complaint must advise respondents of the extent and nature of the alleged violations to reasonably allow preparation of a defense.
- 3) A concise statement of the relief that the complainant seeks.

35 Ill. Adm. Code 103.204(c). See also *Rocke v. Illinois Pollution Control Board*, 78 Ill. App. 3d 476, 481 (1st Dist. 1979).

C. 415 ILCS 5.12(a), (d) Violations

Mr. Pratapas has alleged that Wille Bros. has violated 415 ILCS 5.12(a) & (d), which states that no person shall:

- (a) “[c]ause 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 under this Act.”
- (d) “[d]eposit any contaminants upon the land in such a place and manner so as to create a water pollution hazard.”

Illinois case law indicates that, in order to establish that someone has created a “water pollution hazard”, it must be shown that the particular quantity and concentration of the contaminant would produce a hazard of water pollution. In *Jerry Russell Bliss, Inc. v. E.P.A.*, 138 Ill. App. 3d 699, 704 (5th Dist. 1985), it was shown that a hazardous substance was produced in a sufficient quantity to cause pooling on the ground 1200 feet away from the Mississippi river, in an area prone to leaky artesian conditions. It was also shown that the concentration of the hazardous

substance was in excess of 10,000 parts per million. *Id.* But because it was not established that *both the quantity and concentration* of the substance would produce a water pollution hazard, the finding of the Pollution Control Board that the respondents were guilty of violation of sections 12(a) and 12(d) were reversed. *Id.*

D. Statute of Limitations

The violations of 415 ILCS 5.12(a) & (d) that Mr. Pratapas alleges would constitute a Class A Misdemeanor according to 415 ILCS 5/44(a). The statute of limitations for a Class A Misdemeanor is one year and six months pursuant to 720 ILCS 5/3-5(b). Because the crimes alleged by Mr. Pratapas are not specifically “set forth” in 415 ILCS 5/44, the extended five year statute of limitations laid out in 720 ILCS 5/3-6(f) does not apply. *People v. Wolohans Lumber Co.*, 263 Ill. App. 3d 344, 347 (3rd Dist. 1994).

III. Argument

Mr. Pratapas’ Complaint does not come anywhere close to meeting the standards set forth by Illinois Courts or the Pollution Control Board’s Procedural Rules. It only states that he, “noticed a skid steer with the scoop full of concrete washout, concrete washout on the side of the [sic] Plank Rd and a concrete truck on site.” (Compl., p. 2) It does not state that anyone saw the complainant dumping the substance. *Id.* It does not allege which water source is at risk. *Id.* It does not even allege a specific harmful chemical substance, much less a sufficient quantity and concentration of that substance to cause a hazard of water pollution. *Id.* Furthermore, the allegations referred to in his complaint took place over two years ago. (Compl., p. 3) There is no way in which Mr. Pratapas, even assuming that everything in his complaint is proven, could ever establish that Wille Bros. released a harmful substance of a sufficient quantity and concentration to cause a hazard of water pollution. Therefore, the Complaint fails to state a claim upon which relief can be granted

and is “frivolous” according to 35 Ill. Adm. Code 101.202. Furthermore, based on the lack of information in the Complaint, and the timeliness of its filing, the Board would have no basis to grant the various forms of relief he has requested.

A. Section 5 of the Complaint Does Not State the Water Source, Proximity, Quantity or Concentration of the Pollution Hazard

Section 5 of the Complaint, which allegedly provides a description of the pollution, states that while driving, Pratapas “noticed a skid steer with the scoop full of concrete washout, concrete washout on the side of the [sic] Plank Rd and a concrete truck on site”, and that “there were no concrete washout facilities on site”. *Id.* It goes on to state that when Pratapas asked the contractors not to dump washout in the footprint of the home “as is the industry standard”, he was “ignored”. *Id.* After asking for the permit number, Pratapas alleges that one individual at the site instructed another individual at the site to back a truck towards him. *Id.* The rest of this section of the Complaint concerns Pratapas’ allegations that DuPage County Sheriff’s Deputies refused to help him obtain the permit number so that he could file a complaint. *Id.* Nowhere does this section of the Complaint state what specific substance is alleged to have created a water hazard, what water source is at risk, the proximity of the substance to the water source, the quantity of the water source, or the concentration of the water source. It does not come close to putting the defendant on sufficient notice to prepare a defense and it does not state a claim upon which relief could be granted. Most importantly, the Complaint does not, and cannot truthfully allege that Defendant Wille Bros. was the owner or operator of the skid steer at issue in the Complaint. As stated in the attached Affidavit of Kevin Jarchow, president of Wille Bros., Wille Bros. has never even owned a skid steer.

B. Section 6 of the Complaint Does Not Allege the Frequency or Duration of the Pollution

Section 6 of the Complaint, concerning the duration and frequency of the pollution, only refers to one date, July 27, 2020. (Ex. 1) It goes on to state that “the same industry standards are occurring today resulting in widespread pollution around The [sic] State and the violation of civil liberties by law enforcement”. *Id.* Most of this section is a general indictment against an entire industry, as well as law enforcement, and gives no notice of the frequency or duration of the pollution alleged in this case. If the Complaint’s allegations concern an unknown quantity of an unspecified substance at an unstated proximity to an anonymous water source on a single date that occurred over two years ago, then it has not given sufficient notice to prepare a defense and it does not state a claim upon which relief could be granted.

C. Section 7 of the Complaint Does Not State Any Specific Harmful Effects of the Alleged Pollution.

Section 7 of the Complaint, concerning the harmful effects of the alleged pollution, gives no specific details. (Ex. 1) Instead, it generally states that the effects of concrete washout on plant and animal life are “widely known and accepted”, and that leaving it in foundation footprints “poses immediate risks to communities it occurs in every time.” *Id.* Pratapas goes on to demand that “ILEPA be stopped from issuing any new NPDES SWPPP permits and there be a review of all active sites.” *Id.* Again, this section of the Complaint veers into allegations against an entire system and misses the mark in terms of any specific allegations of harmful effects caused by Wille Bros.

D. Section 8 of the Complaint Asks for Relief Without a Basis

Section 8 of the Complaint, concerning the relief Pratapas is seeking, not only requests that

Wille Bros. be found to have violated the Act, but also requests “a maximum civil penalty” and a recommendation for criminal charges against Wille Bros. (Ex. 1) Pratapas goes on to request an order prohibiting Wille Bros. from pouring concrete in Illinois (“due to the severe nature of the offenses and inability to rely on law enforcement to preserve fundamental constitutional rights”), and an investigation into any of Wille Bros.’ State of Illinois contracts and “their immediate termination”. *Id.* As stated above, the Complaint falls short of the level of specificity required for a violation of the Act. Therefore, it also falls short of the level of specificity required for any of the relief it seeks. A recommendation of a maximum fine, criminal charges, the suspension of all operations and a termination of all Illinois contracts, based on the scant allegations contained in the complaint, would be without a basis to say the least.

Furthermore, because violations of 415 ILCS 5.12(a) and (d) are not specified in 415 ILCS 5/44, a one and a half year statute of limitations would apply. *People v. Wolohans Lumber Co.*, 263 Ill. App. 3d 344, 347 (3rd Dist. 1994). Therefore, the Pollution Control Board could not effectively recommend criminal charges as Mr. Pratapas requests.

IV. Conclusion

The Complaint does not state a claim upon which relief could be granted. It is deficient in almost every way. The Complaint is premised on the actions of an unspecified “skid steer,” which is not even owned by Defendant, Wille Bros. It fails to allege the specific substance that was released, or in what particular way it is harmful to any potential water source. It fails to allege a water source that has been put at risk. It fails to allege the proximity of the unspecified substance to the unspecified water source. Nowhere does it allege the quantity or concentration of any substance sufficient to create a hazard to any water source. Not only does the Complaint fail to allege any facts on which a violation of 415 ILCS 5.12(a) & (d) could be found to have occurred,

but it also fails to put defendants on adequate notice of the allegations to the extent that a defense could be prepared. Finally, the Complaint, in failing to make allegations of sufficient specificity to warrant the finding of a violation, also fails to make allegations sufficient to elicit its requested remedies.

WHEREFORE, Defendant, WILLE BROS., respectfully request that this Court enter an order striking the Complaint on the grounds that it is “Frivolous” according to 35 Ill. Adm. Code 101.202, and any other relief deemed equitable and just.

Respectfully submitted,

WILLE BROS. COMPANY,

By: /s/ Richard J. Nogal
One of Its Attorneys

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835 McClintock Drive, 2nd Floor
Burr Ridge, IL 60527-0860
Telephone: (630) 655-6000
Facsimile: (630) 655-9808
Attorney No.: 00404

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: Wille Brothers Company
Address: 11303 W. Monee Manhattan Road
Monee, IL 60449
Phone: 708.535.4101

Name: DuPage County Sheriff
Deputy Kurt Barbour
Address: 501 N County Farm Road
Wheaton, IL 60187
Phone: 630.407.2000

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.

Wille Brothers Company was providing concrete services for the foundation of a single-family home in Unincorporated Naperville.

Location Pollution Occurred: 25W351 Plank Road Naperville, IL 60563

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)

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

Water: Complainant was driving on Plank Road near his family's Naperville Residence since 1984 when I noticed a skid steer with the scoop full of concrete washout, concrete washout on the side of the Plank Rd and a concrete truck on site.

Complainant approached the site and asked for the contractors not to dump the washout in the footprint of the home as is the industry standard. There were no concrete washout facilities on site. Complainant was ignored and asked for the permit number for the site which was not posted anywhere.

At this point, individual A began instructing individual B to back the concrete truck into complainant in an attempt to strike complainant and intimidate me away from obtaining the permit number for the purpose of petitioning the government for help maintaining environmental compliance at the site.

Complainant then called the DuPage Sheriff to report the incident and obtain help in determining the permit number for the build site.

Complainant met deputy Kurt Barbour and a female officer at the Chase Bank around the corner. Deputy Kurt Barbour had been involved in past incidents with respondent in the recent past where he was extremely disrespectful. Given this fact and other incidents with equally worthless deputies, complainant immediately handed Deputy Kurt Barbour his certified inspector of stormwater certification card. A certification complainant obtained as part of his role as a professional inspector of stormwater with SWPPP permit implementation/management duties.

Complainant explained what had just happened, handed Deputy Kurt Barbour the certification card and asked if Deputy Kurt Barbour was going to be willing to assist in obtaining the permit number for the site.

Kurt and the female officer began making rude comments about what Complainant did to create problems and inquired if Complainant had taken his medications. Deputy Kurt Barbour is under the impression Complainant has some undiagnosed mental health condition.

Complainant is a mental health/behavioral analysis expert who worked in residential psychiatric facilities, including police drop offs. Complainant also has high functioning autism. It is unclear what Deputy Kurt Barbour's major malfunction is. After immediately realizing the DuPage Sheriff was going to insult me rather than help, complainant went home and researched the company involved for reporting purposes.

- 6. Describe the duration and frequency of the alleged pollution. Be as specific as you reasonably can about when you first noticed the alleged pollution, how frequently it occurs, and whether it is still continuing (include seasons of the year, dates, and times of day if known).**

Occurred on or around July, 27, 2020 and the same industry standards are occurring today resulting in widespread pollution around The State and the violation of civil liberties by law enforcement. As The Board is aware of from other Open Formal Complaints.

- 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 effects of concrete washout water on plant and animal life are widely known and accepted. Leaving it onsite inside foundation footprints poses immediate risks to communities it occurs in every time.

Not having the support of the police during the ungodly number of citizen enforcement actions I have had to do only goes to show how imperative it is the ILEPA be stopped from issuing any new NPDES SWPPP permits and there be a review of all active sites.

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

1. Find that Respondent has violated The Act and their permit(s)
2. Assess a maximum civil penalty
3. Recommendation(s) for criminal charges against Respondent(s)
4. Independent investigation into the officers for the purposes of protecting civil liberties of Americans
5. Complainant requests the Sheriff resign in the interest of the public
6. A Board order prohibiting Wille Brothers Company from pouring/contracting any concrete/concrete services in Illinois until the conclusion of this case, due to the severe nature of the offenses and inability to rely on law enforcement to preserve fundamental constitutional rights
7. A board order explaining the role law enforcement has in enforcing environmental laws alongside Americans exercising their civil liberties
8. An investigation into any State of IL contracts held by Wille Brothers Co. and their immediate termination

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. Paul Christian Pratas
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: 12.12.2022

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 12/23 [month/date], 2022, by the time of 5:00 AM/PM at 1750 W OGDEN AVE Naperville, IL 60540 [*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. PT Personal service and I will make the personal delivery. However, the affidavit of service is not available to me currently.

RESPONDENTS' ADDRESS:

Name: Wille Bros Co.
Street: 11303 W. Monee Manhattan Road
City/State/Zip: Monee, IL 60449

Name: DuPage Sheriff Department
Street: 501 N County Farm Road
City/State/Zip: Wheaton, IL 60187

Paul Christian Protapop

Complainant's Signature

Street: 1330 E. Chicago Ave.

City, State, Zip Code: Naperville, IL 60540

Date: 12.12.2022

Subscribed to and sworn before me

this 12 day

of December, 2022.

A. Campos

Notary Public



My Commission Expires: 9/6/2026

(A)

(720 ILCS 5/12-6) (from Ch. 38, par. 12-6)

Sec. 12-6. Intimidation.

(a) A person commits intimidation when, with intent to cause another to perform or to omit the performance of any act, he or she communicates to another, directly or indirectly by any means, a threat to perform without lawful authority any of the following acts:

(1) Inflict physical harm on the person threatened or any other person or on property; or

(2) Subject any person to physical confinement or restraint; or

(3) Commit a felony or Class A misdemeanor; or

(4) Accuse any person of an offense; or

(5) Expose any person to hatred, contempt or ridicule; or

(6) Take action as a public official against anyone or anything, or withhold official action, or cause such action or withholding; or

(7) Bring about or continue a strike, boycott or other collective action.

(b) Sentence.

Intimidation is a Class 3 felony for which an offender may be sentenced to a term of imprisonment of not less than 2 years and not more than 10 years.

(Source: P.A. 96-1551, eff. 7-1-11.)

(B)

The Right to Petition Government

Grade Level:

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

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).

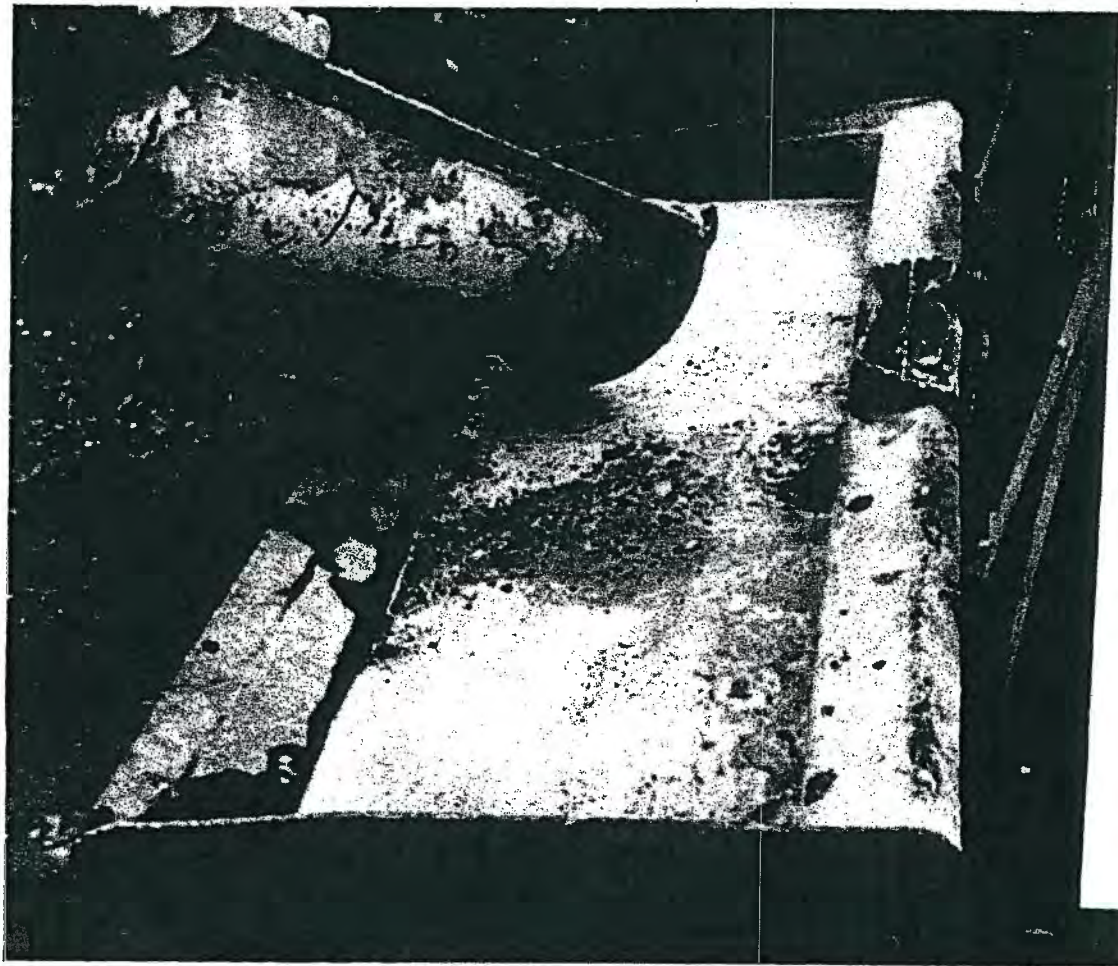
Looking at the specific definition of the word petition, as it relates to the freedom of petition and the First Amendment, the word can be used to describe "any nonviolent, legal means of encouraging or disapproving government action, whether directed to the judicial, executive or legislative branch. 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).

① The Clean Water Act (CWA)

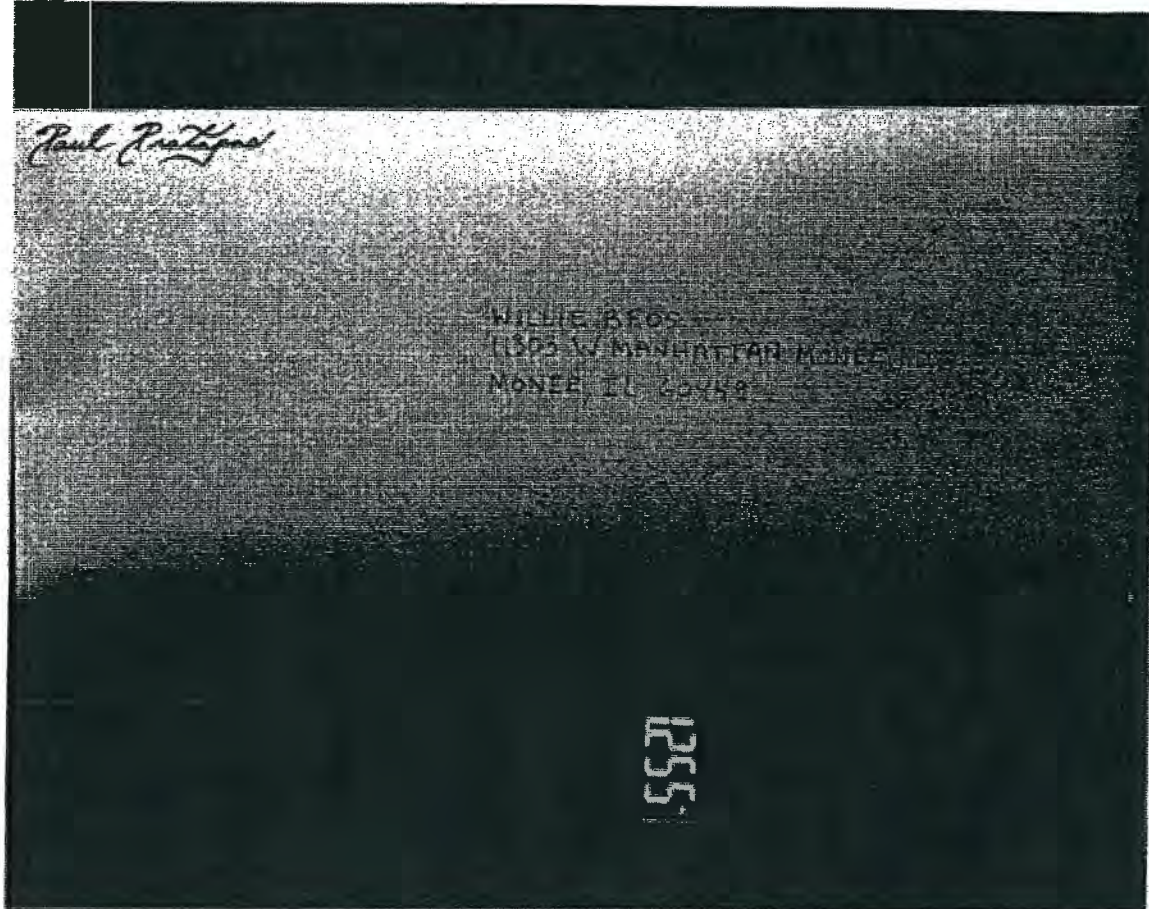
The primary federal law in the United States governing water pollution. Its objective is to restore and maintain the chemical, physical, and biological integrity of the nation's waters; recognizing the responsibilities of the states in addressing pollution and providing assistance to states to do so, 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

(D)



(E)

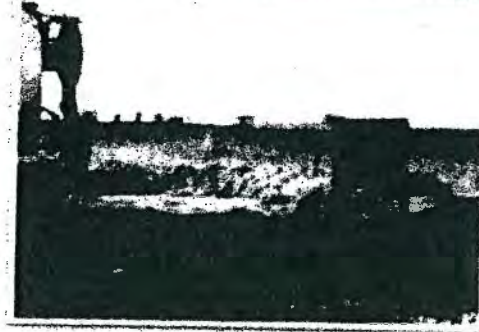


Respondent was notified following incident and has or has not modified operations in order to comply with Environmental Regulations?

F

MISCELLANEOUS PRACTICES

TEMPORARY CONCRETE WASHOUT FACILITY
Code 902



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)

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.

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.

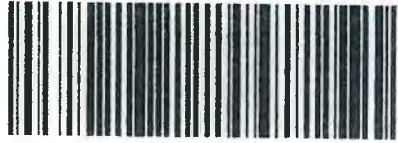
Temporary Concrete Washout Facilities "Above Grade"

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

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Kevin Garchow
11303 W Monee Manhattan RD
Monee, IL 60449



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ILLINOIS POLLUTION CONTROL BOARD

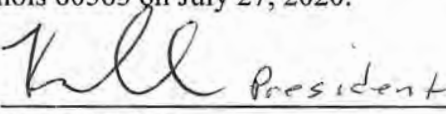
PAUL CHRISTIAN PRATAPAS,)	
an American,)	
)	
Plaintiff,)	
)	
vs.)	No. PCB 2023-076
)	
WILLE BROS. COMPANY;)	
)	
AND)	
)	
DUPAGE COUNTY SHERIFF,)	
)	
Respondents.)	

AFFIDAVIT OF KEVIN JARCHOW

I, KEVIN JARCHOW, under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Procedure, do hereby certify that the statements set forth in this document are true and correct.

1. I am a person over the age of 18 and I make this Affidavit based on my own personal knowledge and I would be competent to testify as to the matters stated herein.
2. I am, and was at all times relevant to this litigation, the President of Wille Brothers Company ("Wille Bros.").
3. I understand that the Plaintiff, Paul Pratapas, has filed a Complaint against Wille Bros. with the Illinois Pollution Control Board, and that the Complaint has been assigned the following number: PCB 2023-076 ("Complaint").
4. The Complaint was delivered to Wille Bros. in Monee, Illinois on December 27, 2022.
5. Wille Bros. was not the only company providing concrete services at 25W351 Plank Road, Naperville, Illinois 60563 on July 27, 2020.
6. Wille Bros. has never owned a "skid steer", or any other similar piece of equipment, as is referred to in the Complaint.
7. Wille Bros. was not in care, custody or control of a "skid steer", or any other similar piece of equipment, at 25W351 Plank Road, Naperville, Illinois 60563 on July 27, 2020.

Further Affiant Sayeth Not.


 Kevin Jarchow





EXHIBIT

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EXHIBIT

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