

ILLINOIS POLLUTION CONTROL BOARD  
June 1, 2023

PAUL CHRISTIAN PRATAPAS, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 23-71  
 ) (Citizens Enforcement - Water)  
 VILLAGE OF WOODRIDGE, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by B.F. Currie):

On December 7, 2022, Paul Christian Pratapas (Mr. Pratapas) filed a complaint against the Woodridge Police Department (Woodridge). The complaint concerns Woodridge’s construction of a new police department facility located at 7215 Janes Avenue, Woodridge, DuPage County. On February 3, 2023, Woodridge filed an answer to the complaint that contained an affirmative defense arguing the complaint failed to state a claim upon which the Board can grant relief (Ans.). The Board first addresses the proper name of the respondent, “Woodridge Police Department”, directs the Clerk to correct the name of the respondent and accepts the complaint for hearing.

**NAMED RESPONDENT**

As filed, Mr. Pratapas named “Woodridge Police Department” as the respondent in this complaint. In its answer, the attorney for the respondent says that the Village of Woodridge is the correct name for the respondent as Woodridge is a home rule municipality. Ans. at 1. The Board corrects the caption in this order and directs the Clerk to correct the respondent’s name in the docket of this case.

**SUMMARY OF COMPLAINT**

Under the Environmental Protection Act (Act) (415 ILCS 5 (2020)), any person may bring an action before the Board to enforce Illinois’ environmental requirements. See 415 ILCS 5/3.315, 31(d)(1) (2020); 35 Ill. Adm. Code 103.

In this case, using a sample form supplied by the Board, complainant filed a complaint, attached to which were four photographs and a table. The complaint alleges that Woodridge is causing or allowing pollution at 7215 Janes Avenue in Woodridge, DuPage County. Comp. at 2 (¶4). Complainant describes the site as “[t]he Woodridge Police Department is Building a new Department Facility adjacent to the current HQ.” Comp. at 2 (¶3).

The Board’s form complaint requests that the complainant “[d]escribe the type of pollution that you allege... and the location of the alleged pollution” as specifically as he or she

reasonably can. Comp. at 3 (¶6). The complaint alleges, “Photographed 12/6/22 after serving the Police Department documents for another IPCB case.” *Id.*

The Board’s form complaint also asks the complainant to “[l]ist specific sections of the Environmental Protection Act [Act], Board regulations, Board order, or permit that you allege have been or are being violated.” Comp. at 3 (¶5). The complaint alleges that Woodridge is violating or has violated “1. 415 ILCS 5.12(a) 2. 415 ILCS 5/12(d) 3. IL Admin Code Title 35, 304.141(b).” *Id.* In describing the type of pollution alleged, the complaint says:

Water. Toxic concrete/mortar washout water/slurry prohibited from making contact with soil and migrating to surface waters or into the ground water not properly managed. Sediment and sediment laden water freely allowed to enter the street and inlets. Many geese photographed immediately adjacent.

Site does not have a stabilized construction entrance which should have been noted and corrected via required inspection reports. There are four large mortar reserves sitting on the ground next to a skid steer which will likely be used to transport the mortar around the site. Site does not have adequate or required BMPs [Best Management Practices] for these activities. The approved methods of removing washout water are evaporation and pump truck. Mortar area is next to large unstabilized area which leads to the unstabilized construction entrance leading to a public road. Sediment and other pollutants are not controlled and their entry into the streets/inlets minimized. *Id.*

The Board’s form complaint also asks the complainant to “[d]escribe any bad effects that you believe the alleged pollution has or has had...” Comp. at 3 (¶7). The complaint alleges:

The negative environmental impacts of concrete washout and sediment laden waters is widely documented and part of the reason for the NPDES permit program.

Likely fraud of inspection reports and contractor certifications. Fraudulent submission/approval of boiler plate SWPPP [Storm Water Pollution Prevention Plan] with no intent/ability to comply as approved poses immediate risk to Canadian Geese using the area during foraging. As well as, to the stormwater system and receiving water(s). Neighborhood pets in adjacent occupied areas. Comp. at 3-4 (¶7).

The form complaint asks the complainant to “describe the relief that you seek form the Board.” Comp. at 4 (¶8). The complaint requests that the permit for the site be voided; the SWPPP book seized; the site stabilized; a finding that the Respondent has violated their permit; investigation into fraudulent SWPPP inspection reports; an order requiring minimum SWPPP information be posted in a publicly accessible place; an order requiring a study be conducted that examines the displacement of Canadian Geese and other migratory birds by unchecked construction in Illinois; and assess a civil penalty of \$50,000 against the Respondent for each violation of the Act and regulations and an additional civil penalty of \$10,000 per day for each day of each violation. *Id.*

The Board finds that the complaint meets the content requirements of the Board's procedural rules. *See* 35 Ill. Adm. Code 103.204(c), (f).

Section 31(d)(1) of the Act provides that “[u]nless the Board determines that [the] complaint is duplicative or frivolous, it shall schedule a hearing.” 415 ILCS 5/31(d)(1) (2020); *see also* 35 Ill. Adm. Code 103.212(a). A complaint is duplicative if it is “identical or substantially similar to one brought before the Board or another forum.” 35 Ill. Adm. Code 101.202. A complaint is frivolous if it requests “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.” *Id.* Within 30 days after being served with a complaint, a respondent may file a motion alleging that the complaint is duplicative or frivolous. 35 Ill. Adm. Code 103.212(b). Woodridge has filed no motion. No evidence before the Board indicates that Mr. Pratapas' complaint is duplicative or frivolous.

The Board accepts the complaint for hearing. *See* 415 ILCS 5/31(d)(1) (2020); 35 Ill. Adm. Code 103.212(a). A respondent's failure to file an answer to a complaint within 60 days after receiving the complaint may have severe consequences. Generally, if the respondent fails within that timeframe to file an answer specifically denying, or asserting insufficient knowledge to form a belief of, a material allegation in the complaint, the Board will consider the respondent to have admitted the allegation. *See* 35 Ill. Adm. Code 103.204(d).

The Board directs the hearing officer to proceed expeditiously to hearing. Upon its own motion or the motion of any party, the Board or the hearing officer may order that the hearing be held by videoconference. In deciding whether to hold the hearing by videoconference, factors that the Board or the hearing officer will consider include cost-effectiveness, efficiency, facility accommodations, witness availability, public interest, the parties' preferences, and the proceeding's complexity and contentiousness. *See* 35 Ill. Adm. Code 101.600(b), 103.108.

Among the hearing officer's responsibilities is the “duty . . . to ensure development of a clear, complete, and concise record for timely transmission to the Board.” 35 Ill. Adm. Code 101.610. A complete record in an enforcement case thoroughly addresses, among other things, the appropriate remedy, if any, for the alleged violations, including any civil penalty.

If a complainant proves an alleged violation, the Board considers the factors set forth in Sections 33(c) and 42(h) of the Act to fashion an appropriate remedy for the violation. *See* 415 ILCS 5/33(c), 42(h) (2020). Specifically, the Board considers the Section 33(c) factors in determining, first, what to order the respondent to do to correct an on-going violation, if any, and, second, whether to order the respondent to pay a civil penalty. The factors provided in Section 33(c) bear on the reasonableness of the circumstances surrounding the violation, such as the character and degree of any resulting interference with protecting public health, the technical practicability and economic reasonableness of compliance, and whether the respondent has subsequently eliminated the violation.

If, after considering the Section 33(c) factors, the Board decides to impose a civil penalty on the respondent, only then does the Board consider the Act's Section 42(h) factors in determining the appropriate amount of the civil penalty. Section 42(h) sets forth factors that may

mitigate or aggravate the civil penalty amount. These factors include the following: the duration and gravity of the violation; whether the respondent showed due diligence in attempting to comply; any economic benefits that the respondent accrued from delaying compliance based upon the “lowest cost alternative for achieving compliance”; the need to deter further violations by the respondent and others similarly situated; and whether the respondent “voluntarily self-disclosed” the violation. 415 ILCS 5/42(h) (2020). Section 42(h) requires the Board to ensure that the penalty is “at least as great as the economic benefits, if any, accrued by the respondent as a result of the violation, unless the Board finds that imposition of such penalty would result in an arbitrary or unreasonable financial hardship.” *Id.* Such penalty, however, “may be off-set in whole or in part pursuant to a supplemental environmental project agreed to by the complainant and the respondent.” *Id.*

Accordingly, the Board further directs the hearing officer to advise the parties that in summary judgment motions and responses, at hearing, and in briefs, each party should consider: (1) proposing a remedy for a violation, if any (including whether to impose a civil penalty), and supporting its position with facts and arguments that address any or all of the Section 33(c) factors; and (2) proposing a civil penalty, if any (including a specific total dollar amount and the portion of that amount attributable to the respondent’s economic benefit, if any, from delayed compliance), and supporting its position with facts and arguments that address any or all of the Section 42(h) factors. The Board also directs the hearing officer to advise the parties to address these issues in any stipulation and proposed settlement that may be filed with the Board.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 1, 2023, by a vote of 3-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board