

ILLINOIS POLLUTION CONTROL BOARD
June 1, 2023

PAUL CHRISTIAN PRATAPAS,)
)
 Complainant,)
)
 v.) PCB 23-73
) (Citizen's Enforcement - Water)
 CADILLAC OF NAPERVILLE, and)
 JOSEPH NICOLAS CONSTRUCTION,)
)
 Respondents.)

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

On December 9, 2022, Paul Christian Pratapas (Mr. Pratapas) filed a citizen's complaint (Comp.) against Cadillac of Naperville (Cadillac) and Joseph Nicolas Construction (Nicolas Construction) alleging violations of the Environmental Protection Act. The complaint concerns construction activity at Cadillac of Naperville's showroom at 1507 West Ogden Avenue in Naperville, DuPage County. On January 23, 2023, Nicolas Construction filed a motion to dismiss on the grounds that the complaint is frivolous (Mot).

The Board first addresses Nicolas Construction's motion to dismiss the complaint on the grounds of frivolousness. The Board grants, in part, Nicolas Construction's motion to dismiss for frivolousness, but gives Mr. Pratapas time to amend his complaint and strikes two of Mr. Pratapas' requests for relief.

MOTION TO DISMISS

Under 415 ILCS 5/31(d)(1) (2020), the Board will dismiss complaints that are frivolous. "Frivolous" is defined in the Board's rules as, "any 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(b). Nicolas Construction argues the complaint is frivolous because it requests relief that the Board does not have the authority to grant.

The Board's procedural rules require complaints to include "dates, location, events, nature, extent, duration, and strength of discharges or emissions and consequences alleged to constitute violations." 35 Ill. Adm. Code 103.204(c)(2). Mr. Pratapas' complaint alleges that the violation occurred on December 5 and 8, 2022, at Cadillac of Naperville's property. Comp. at 3. However, the complaint lacks any details describing the extent, duration or strength of the alleged violation and only cites general violations, such as "washing out on the ground". *Id.*

Complaints must request relief that the Board has the ability to grant. *See* 35 Ill. Adm. Code 101.202(b). In his complaint, Mr. Pratapas requests that the Board: 1) find that “[r]espondent” has violated their permit and the Act; 2) assess a “maximum civil penalty”; 3) issue an order creating plans for mobile mortar mixers with and without reservoirs that require these devices to have best management practices for washout areas; 4) void permits for the site until the alleged violations are resolved; 5) issue an order requiring Nicolas Construction to cease concrete use until it demonstrates the ability to comply with environmental regulations; 6) issue a study that examines the rates of electrical grid expansion in Illinois; and 7) issue an opinion on “Illinois rate payers funding pollution under the guise of utility energy efficiency programs.” Comp. at 4.

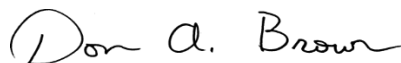
The Board has broad statutory authority to grant relief; however, it does not have the authority to issue studies on the electrical grid or issue opinions on whether energy efficiency programs fund pollution. *See* 35 Ill. Adm. Code 101.106(b). Therefore, the Board strikes these request for relief and gives Mr. Pratapas 30 days to amend his complaint as to the specificity of the violations.

ORDER

1. The Board grants Nicolas Construction’s motion to dismiss for frivolousness in part and directs Mr. Pratapas to amend his complaint for specificity no later than July 3, 2023.
2. The Board grants Nicolas Construction’s motion to strike Mr. Pratapas’ relief requests, numbered 6 and 7 in the complaint.

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