

ILLINOIS POLLUTION CONTROL BOARD

June 1, 2023

PAUL CHRISTIAN PRATAPAS,)	
)	
Complainant,)	
)	
v.)	PCB 23-82
)	(Citizen's Enforcement - Water)
MIDWEST CONSTRUCTION PARTNERS,)	
AND CITY OF NAPERVILLE: MAYOR)	
STEVE CHIRICO,)	
)	
Respondents.)	

ORDER OF THE BOARD (by J. Van Wie):

On December 27, 2022, Paul Christian Pratapas filed a citizen's complaint (Comp.) against Midwest Construction Partners (Midwest), and City of Naperville: Mayor Steve Chirico (Mayor). On January 3, 2023, Mr. Pratapas filed proof of service indicating he personally served Midwest and the Mayor.

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. Under the Board's rules, an enforcement proceeding begins by serving a notice and the complaint on a respondent. *See* 35 Ill. Adm. Code 103.204(a), (b). Specifically, service must be "by U.S. Mail with a recipient's signature recorded, a third-party commercial carrier with a recipient's signature recorded, or personal service." *Id.* Notably, enforcement complaints may not be served by e-mail. *See* 35 Ill. Adm. Code 101.1000(e).

If service is not timely initiated or completed, then the "proceeding is subject to dismissal, and the filing party is subject to sanctions." 35 Ill. Adm. Code 101.304(b)(4). In this case, Mr. Pratapas used a sample complaint form available from the Board's website that is directed at citizen complaints. The Board's form includes a sample affidavit of service that lists appropriate methods of service. Mr. Pratapas reported to the Board that the complaint would be served on the respondent by "[p]ersonal service and [Mr. Pratapas] will make the personal delivery. However, the affidavit of service is not available to me currently." Comp. at 10. Illinois law requires that a private corporation be served by "(1) leaving a copy of the process with its registered agent or any officer or agent of the corporation found anywhere in the State; or (2) in any other manner now or hereafter permitted by law." 735 ILCS 5/2-204 (2020). Mr. Pratapas indicated that he personally served the complaint on Midwest at an address in Schaumburg.

The Board's rules for service do not state that a complainant may not be the party to personally serve the complaint on a respondent. *See* 35 Ill. Adm. Code 101.304, 103.204. In the

Board's sample complaint form, the Documentation of Service page includes an Affidavit of Service section listing appropriate methods of service. Under the Affidavit of Service section, a complainant may mark Subsection C to indicate that the complainant personally served the complaint themselves. The Board's rules and sample forms therefore allow personal service of a complaint by a complainant. The Code of Civil procedure similarly allows for service of process on a private corporation to be made in any manner permitted by law. *See* 735 ILCS 5/2-204 (2020).

Here, Mr. Pratapas initially used an altered version of the Board's sample Documentation of Service page to indicate that he would mail service to Midwest and personally serve the Mayor. Mr. Pratapas later filed a "Notice of Service" indicating that he personally served something on Midwest and the Mayor at the addresses listed on the "Notice of Service". However, the "Notice of Service" filed on January 3, 2023 does not indicate what Mr. Pratapas served on the parties at these addresses, so there is no proof of service of the complaint on the respondents. Therefore, the Board will allow Mr. Pratapas to file proper proof of service of the complaint on the respondents no later than Monday, July 3, 2023, which is the first business day following the 30th day after the date of this order (*see* 35 Ill. Adm. Code 101.300(a)), or face dismissal of the complaint for failure to properly serve 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.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive, flowing style.

Don A. Brown, Clerk
Illinois Pollution Control Board