

ILLINOIS POLLUTION CONTROL BOARD
July 20, 2023

PAUL CHRISTIAN PRATAPAS,)
)
 Complainant,)
)
 v.) PCB 23-83
) (Citizens Enforcement - Water)
 STEEPLE RUN ELEMENTARY SCHOOL;)
 and OZINGA READY MIX CONCRETE,)
 INC.,)
)
 Respondents.)

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

On December 29, 2022, Paul Christian Pratapas (Mr. Pratapas) filed a citizen’s complaint against Steeple Run Elementary School (Steeple Run) and Ozinga Ready Mix Concrete, Inc. (Ozinga). The complaint concerns a school construction site located at 6S151 Steeple Run Drive in Naperville, DuPage County.

On January 27, 2023, Ozinga filed a motion to dismiss for failure to serve and for frivolousness. On March 13, 2023, Steeple Run filed a motion for extension of time to respond to the complaint.

On June 1, 2023, The Board directed Mr. Pratapas to file the required proof of service of the complaint on the respondents no later than July 3, 2023, or face dismissal of the complaint for failure to properly serve the respondents. *See* 35 Ill. Adm. Code 101.304(c), (d); *see also* 35 Ill. Adm. Code 103.204(a).

On July 3, 2023, Mr. Pratapas filed a motion for extension of time to file the required proof of service. (Mot.) Mr. Pratapas’ reasons for requesting an extension of time were, “Complainant cannot afford to re-serve Respondent via certified mail... Complainant still has not been able to identify a registered agent to receive service.” Mot. at 1. Steeple Run and Ozinga did not respond to the motion.

On July 14, 2023, Steeple Run and Mr. Pratapas filed an agreed motion for voluntary dismissal of the complaint as to respondent Steeple Run. Also on July 14, 2023, Ozinga filed a response to the motion for an extension of time (Resp.). Ozinga argues that the Board’s rules require requests for extension of time to be supported by good cause, 35 Ill. Adm. Code 101.522, and that, “Complainant’s request for a continuance is based entirely on his failure to follow the directives of the Board’s Order, which certainly does not establish the requisite good cause for the Board to grant his Motion. Resp. at 2.

A total of 203 days have elapsed since Mr. Pratapas initially filed the complaint with the Board. Additionally, the Board has already granted Mr. Pratapas an extension of 30 days to file the required proof of service. The Board notes that Mr. Pratapas used a sample citizen complaint form, available on the Board's website, to file his complaint on December 29, 2022. The instructions accompanying that form include detailed steps on how to serve complaints on respondents in accordance with the Board's rules.¹ Additionally, the instructions inform potential filers of the following:

To file with the Board your Formal Complaint or any other document in the enforcement proceeding, you do not pay any filing fee to the Board. The Board will pay its own hearing costs, such as hearing room rental, court reporting fees, and hearing officer expenses. You are responsible for the costs that you or your attorney may incur in pursuing your complaint (e.g., attorney fees, duplicating charges, travel expenses, and witness fees). *Id.*

The nominal expense of serving the complaint upon a respondent is an expense that must be borne by the complainant. Therefore, the Board denies Mr. Pratapas' request for extension of time. Because Mr. Pratapas failed to timely file the required proof of service of the complaint, the Board dismisses this case and closes the docket.

ORDER

1. Mr. Pratapas' request for extension of time to file proof of service is denied.
2. The case is dismissed and the docket is closed.
3. The joint motion to voluntarily dismiss the complaint as to Steeple Run is denied as moot.
4. Ozinga's January 27, 2023, motion to dismiss the complaint is denied as moot.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2022); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702. Filing a motion asking that the

¹ Illinois Pollution Control Board, *Formal Complaint Package*, PCB.ILLINOIS.GOV, <https://pcb.illinois.gov/documents/dsweb/Get/Document-87676/> (last visited July 13, 2023).

Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
Paul Christian Pratapas 1779 Kirby Parkway, Ste. 1, #92 Memphis, Tennessee, 38138 paulpratapas@gmail.com	Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 E. Van Buren St., Suite 630 Chicago, Illinois 60605
Kenneth M. Florey Jared D. Michael 55 W. Monroe, Suite 800 Chicago, Illinois 60603 kflorey@robbins-schwartz.com jmichael@robbins-schwartz.com	
Richard S. Porter 100 Park Ave., P.O. Box 1389 Rockford, Illinois 61105 rporter@hinshawlaw.com	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 20, 2023, by a vote of 3-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board