

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	
	)	PCB 07-53
MOLINE PLACE DEVELOPMENT, LLC,	)	(Enforcement – Water)
and CROSSTOWNE PLACE	)	
DEVELOPMENT, LLC,	)	
	)	
Respondents.	)	

**NOTICE OF FILING**

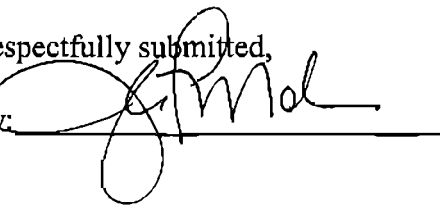
TO: Mr. John Therriault	Carol Webb, Esq.
Assistant Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
100 West Randolph Street	1021 North Grand Avenue East
Suite 11-500	Post Office Box 19274
Chicago, Illinois 60601	Springfield, Illinois 62794-9274
<b>(VIA ELECTRONIC MAIL)</b>	<b>(VIA U.S. MAIL)</b>

(PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the RESPONDENT MOLINE PLACE DEVELOPMENT, LLC'S ANSWER TO COUNTS I AND II OF COMPLAINANT'S COMPLAINT on behalf of MOLINE PLACE DEVELOPMENT, LLC, copies of which are herewith served upon you.

Respectfully submitted,

By: \_\_\_\_\_



Dated: February 18, 2010

Jennifer M. Martin  
HODGE DWYER & DRIVER  
3150 Roland Avenue  
Post Office Box 5776  
Springfield, Illinois 62705-5776  
(217) 523-4900

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**RESPONDENT MOLINE PLACE DEVELOPMENT, LLC'S ANSWER TO COUNTS I AND II OF PLAINTIFF'S COMPLAINT DIRECTED TO MOLINE PLACE DEVELOPMENT, LLC**

NOW COMES Respondent, MOLINE PLACE DEVELOPMENT, LLC ("Moline Place"), by and through its attorneys, HODGE DWYER & DRIVER, and for its Answer to Counts I and II of Complainant's Complaint, states as follows:

**COUNT I  
WATER POLLUTION-MOLINE PLACE**

1. Moline Place has insufficient knowledge to either admit or deny the allegations of paragraph 1, and, therefore, denies the same.
2. Admit
3. Admit.
4. Moline Place admits that it is an Illinois limited liability company, and affirmatively states that Moline Place was inadvertently voluntarily dissolved on December 31, 2009. Moline Place has submitted documentation to the Illinois Secretary of State requesting reinstatement of Moline Place Development, LLC. Moline Place admits that Michael Shamsie is the registered agent for Moline Place at the address in paragraph 4

of the Complaint. Moline Place denies that it is the sole owner of the residential housing area called One Moline Place and located at 6<sup>th</sup> Street and 11<sup>th</sup> Avenue in Moline, Rock Island County, Illinois.

5. The allegations of paragraph 5 are directed to another respondent, and, therefore, Moline Place has no response to this allegation.

6. Moline Place admits that One Moline Place includes two sites. Moline Place affirmatively states that it owns none of the residential housing located in the site east of 6<sup>th</sup> Street (the "east site"), consisting of thirteen acres. Moline Place admits that it owns the former Trinity College Nursing building on the site west of 6<sup>th</sup> Street (the "west site"), and that the west site consists of sixteen acres. Moline Place denies all remaining allegations of paragraph 6.

7. The allegations of paragraph 7 are directed to another respondent, and, therefore, Moline Place has no response to these allegations.

8. Moline Place admits that the Illinois EPA issued National Pollutant Discharge Elimination System ("NPDES") permit #ILR107509 to Moline Place on November 8, 2002, and that Illinois EPA issued NPDES Permit #ILR10A460 to Moline Place on May 17, 2004. Moline Place admits that NPDES Permit #ILR107509 was terminated on August 14, 2003. Moline Place denies the remaining allegations of paragraph 8.

9. The allegations of paragraph 9 are directed to another respondent, and, therefore, Moline Place has no response to these allegations.

10. Respondent admits that stormwater from the east side and west side of One Moline Place discharges, either to local streets, and from there into the City of Moline ("City") storm sewers, or directly into the City's storm sewers at the site. Respondent lacks sufficient knowledge to admit or deny that the City's storm sewer system discharges into a portion of the Mississippi River known as the Sylvan Slough.

11. The allegations of paragraph 11 are directed to another respondent, and, therefore, Moline Place has no response to these allegations.

12. Paragraph 12 contains a legal conclusion for which no response is required.

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To the extent that paragraph 12 contains any factual allegations, Moline Place has insufficient knowledge to admit or deny such allegations, and, therefore, denies the same.

13. The statutory section quoted in paragraph 13 speaks for itself and, therefore, Moline Place has no response to this allegation. To the extent that paragraph 13 states any allegations of fact, Moline Place denies the same.

14. The statutory section quoted in paragraph 14 speaks for itself and, therefore, Moline Place has no response to this allegation. To the extent that paragraph 14 states any allegations of fact, Moline Place denies the same.

15. The regulatory section quoted in paragraph 15 speaks for itself and, therefore, Moline Place has no response to this allegation. To the extent that paragraph 15 states any allegations of fact, Moline Place denies the same.

16. Admit.

17. The regulatory section quoted in paragraph 17 speaks for itself and, therefore, Moline Place has no response to this allegation. To the extent that paragraph 17 states any allegations of fact, Moline Place denies the same.

18. Moline Place lacks sufficient knowledge to admit or deny the allegations of paragraph 18 with regard to what Illinois EPA observed on March 24, 2004, and, therefore, denies these allegations. To the extent that paragraph 18 states any further allegations of fact, Moline Place denies the same.

19. Moline Place lacks sufficient knowledge to admit or deny the allegations of paragraph 19 with regard to what Mike Waldon, Moline Public Works Director, reported to the Illinois EPA in a phone conversation on March 25, 2004, and, therefore, denies these allegations. To the extent that paragraph 19 states any further allegations of fact, Moline Place denies the same.

20. Moline Place admits that a telephone conference was held on April 2, 2004, between Mr. Kammuller and Michael Shamsie, but lack sufficient knowledge or recollection concerning the topics discussed, and therefore denies the remaining allegations of paragraph 20.

21. Moline Place admits that it received a Violation Notice, dated May 12, 2004, from Illinois EPA which alleged violations relating to the failure to obtain a NPDES storm water permit, failure to provide or follow an adequate SWPPP, and unlawful discharge of contaminants onto public roadways and into city storm sewers. To the extent that paragraph 21 states any further allegations of fact, Moline Place denies the same.

22. Admit.

23. Admit.

24. Moline Place admits that, on July 23, 2004, the Illinois EPA sent Moline Place a letter rejecting its proposed Compliance Commitment Agreement. Moline Place lacks sufficient knowledge to admit or deny the remaining allegations of paragraph 24, and, therefore, denies the same.

25. Admit.

26. Moline Place lacks sufficient knowledge to admit or deny the allegations of paragraph 26 with regard to what Illinois EPA observed at the construction site during its March 23, 2005 inspection, and, therefore, denies these allegations. To the extent that paragraph 26 states any further allegations of fact, Moline Place denies the same.

27. Admit.

28. Admit.

29. Moline Place admits that, by letter dated June 2, 2005, and following the recommendation of the Illinois EPA, Mr. Shamsie forwarded copies of agreements that transferred liability for storm water pollution prevention for eighteen lots to other builders. Moline Place denies the remaining allegations of paragraph 29.

30. Moline Place admits that it received a letter dated August 16, 2005, from Illinois EPA, which letter speaks for itself. Moline Place denies the remaining allegations of paragraph 30.

31. Moline Place lacks sufficient knowledge to admit or deny the allegations of paragraph 31 with regard to what Illinois EPA observed during its November 9, 2005, January 27, 2006, and March 23, 2006 inspections, and, therefore, denies the same. To the

extent that paragraph 31 states any further allegations of fact, Moline Place denies the same.

32. Moline Place denies the allegations of Paragraph 32.

33. Moline Place denies the allegations of Paragraph 33.

**PRAYER FOR RELIEF**

WHEREFORE, Respondent, MOLINE PLACE DEVELOPMENT, LLC (“Moline Place”), prays that Complainant take nothing by Count I of its Complaint, that the Board enter judgment in favor of Respondent as to Count I of Complainant’s Complaint, and grant such other relief as the Board may deem appropriate.

**COUNT II**  
**PERMIT VIOLATIONS – MOLINE PLACE**

1-31 Moline Place reasserts and incorporates herein by reference paragraphs 1 through 31 of Count I as paragraphs 1 through 31 of this Count II.

32. Moline Place denies the allegations of paragraph 32.

33. Paragraph 33 contains a legal conclusion for which no response is required.

To the extent that paragraph 33 contains any factual allegations, Moline Place denies the same.

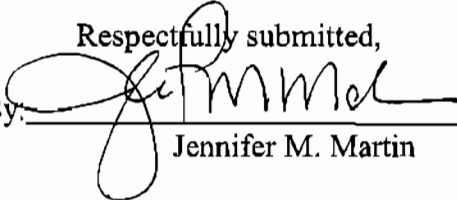
**PRAYER FOR RELIEF**

WHEREFORE, Respondent, MOLINE PLACE DEVELOPMENT, LLC (“Moline Place”), prays that Complainant take nothing by Count II of its Complaint, that the Board enter judgment in favor of Respondent as to Count II of Complainant’s Complaint, and grant such other relief as the Board may deem appropriate.

**PRAYER FOR RELIEF**

WHEREFORE, Respondent, MOLINE PLACE DEVELOPMENT, LLC ("Moline Place"), prays that Complainant take nothing by Counts I and II of its Complaint, that the Board enter judgment in favor of Respondent as to Counts I and II of Complainant's Complaint, and grant such other relief as the Board may deem appropriate.

Dated: February 18, 2010

Respectfully submitted,  
By:   
Jennifer M. Martin

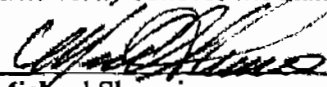
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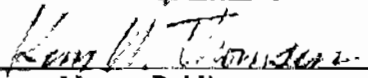
**VERIFICATION**

*Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief, and as to such matters the undersigned certifies as aforesaid that she/he verily believes the same to be true.*



Michael Shamsie  
Moline Place Development, LLC

Subscribed and sworn to before me  
this 17 day of Feb, 2010.



Notary Public



**CERTIFICATE OF SERVICE**

I, Jennifer M. Martin, the undersigned, hereby certify that I have served the  
RESPONDENT MOLINE PLACE DEVELOPMENT, LLC'S ANSWER TO COUNTS I  
AND II OF COMPLAINANT'S COMPLAINT upon:

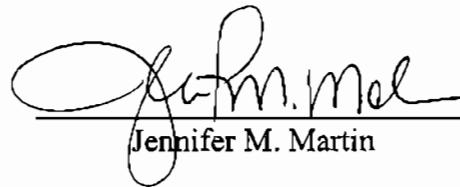
Mr. John Therriault  
Assistant Clerk of the Board  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

via electronic mail on February 18, 2010; and upon:

Carol Webb, Esq.  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
Post Office Box 19274  
Springfield, Illinois 62794-9274

Raymond J. Callery, Esq.  
Office of the Attorney General  
500 South Second Street  
Springfield, Illinois 62706

by depositing said documents in the United States Mail, postage prepaid, in Springfield,  
Illinois on February 18, 2010.

  
Jennifer M. Martin