

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

ROLF SCHILLING, PAM SCHILLING and)
SUZANNE VENTURA,)

Complainants,)

v.)

PCB. No. 10-100

GARY D. HILL, VILLA LAND TRUST,)
an Illinois Land Trust, and PRAIRIE)
LIVING WEST, LLC)

Respondents.)

MOTION FOR LEAVE TO FILE RESPONSE INSTANTER

NOW COME Complainants, ROLF SCHILLING, PAM SCHILLING and SUZANNE VENTURA, through their attorneys, Sorling, Northrup, Hanna, Cullen & Cochran, Ltd., Stephen F. Hedinger of Counsel, and move this Board for leave to file instanter the attached proposed response to the Motion to Dismiss filed in this case by all Respondents. In support of this motion, Complainants state as follows:

1. Complainants filed their complaint in this case on June 1, 2010, and Respondents filed a Motion to Dismiss on August 2, 2010.

2. Complainants have previously sought an extension of two weeks to file a response to Respondents' Motion to Dismiss. To the best of counsel's knowledge at the time of filing this motion, no ruling has yet been entered on the motion for extension.

3. Complainants were not able to meet either the original deadline for responding to the motion to dismiss or the proposed extended deadline due to a number of factors, including vacation scheduling and family responsibilities at the beginning of the school year, the press of other business, and the fact that the motion to dismiss included no citation to legal authority, requiring Complainants to thoroughly research the issues presented.

4. Respondents required sixty (60) days between the filing of Complainants' complaint and the filing of their motion to dismiss, and filed the motion substantially later than the time for filing set forth in 35 Ill. Adm. Code 103.212(b), without seeking leave for the late filing.

5. This motion is being made in good faith, and not for any improper purpose. Denial of the motion will greatly prejudice Complainants by depriving them of the opportunity to respond to the motion to dismiss. Allowance of the motion should prejudice no one.

6. The proposed response to the motion to dismiss is being submitted for filing with this motion.

WHEREFORE Complainants, ROLF SCHILLING, PAM SCHILLING and SUZANNE VENTURA, request this Board's leave to file instanter the attached proposed response to the motion to dismiss filed by Respondents in this matter, and for all such other and further relief in favor of Complainants as this Board deems just and appropriate.

Date September 1, 2010

Respectfully submitted,

ROLF SCHILLING, PAM SCHILLING and
SUZANNE VENTURA, Complainants

By:


Stephen F. Hedinger

Sorling, Northrup, Hanna,
Cullen & Cochran, Ltd.
Stephen F. Hedinger and
Brian D. Jones, of Counsel
Suite 800 Illinois Building
P.O. Box 5131
Springfield, IL 62705
Telephone: 217.544.1144
Fax: 217.522.3173
E-mail: sfhedinger@sorlinglaw.com
E-mail: bdjones@sorlinglaw.com

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, certify that I have served a copy of the foregoing document upon the attorneys for Respondents at the following addresses:

Jonathan R. Cantrell
Molly Wilson Dearing
Winters, Brewster, Crosby & Schafer LLC
111 West Main
P.O. Box 700
Marion, IL 62959

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Ave. East
P. O. Box 19274
Springfield, IL 62794-9274

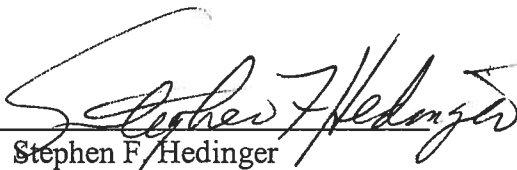
by depositing same in the U.S. Mail, certified mail/return receipt requested, postage prepaid, on this 1st day of September, 2010.

Similarly, the original and nine copies were mailed to:

Mr. John T. Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, IL 60601

by depositing same in the U.S. Mail, first class, postage prepaid, on this 1st day of September, 2010.

By: _____



Stephen F. Hedinger
Attorney for Complainants

Sorling, Northrup, Hanna,
Cullen & Cochran, Ltd.
Stephen F. Hedinger and
Brian D. Jones, of Counsel
607 E. Adams St., Suite 800
P.O. Box 5131
Springfield, IL 62705
Telephone: 217.544.1144
Fax: 217.522.3173