

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ROLF SCHILLING, PAM SCHILLING and)
SUZZANE VENTURRA,)
)
Complainants,)
)
vs.)
)
GARY D. HILL, VILLA LAND TRUST,)
an Illinois Land Trust, and PRAIRIE)
LIVING WEST, LLC)
)
Respondents.)

PCB. No. 10-100

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STATE OF ILLINOIS
Pollution Control Board

REPLY TO COMPLAINANTS' RESPONSE TO
RESPONDENTS' MOTION TO DISMISS

NOW COMES the Respondents, GARY D. HILL, VILLA LAND TRUST, an Illinois Land Trust, and PRAIRIE LIVING WEST, LLC , by and through their attorneys, Winters, Brewster, Crosby and Schafer LLC, and for their reply to Complainants' response to Respondents' Motion to Dismiss, and in support thereof, hereby states as follows:

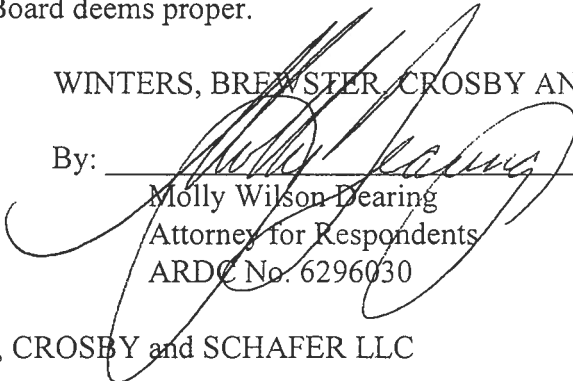
1. On July 1, 2010, Respondents filed a Motion for Extension of Time in which to plead, wherein Respondents stated that they were awaiting the results of a survey conducted by the Illinois Environmental Protection Agency on June 10, 2010.
2. By the time Respondents had to file a responsive pleading, the results of the survey had still not become available to Respondents.
3. Respondents only very recently received the results of the survey from the IEPA, as the correspondence from the IEPA bears a date of September 16, 2010.
4. Respondents attach hereto and incorporate herein as "Exhibit A" the report from the IEPA dated September 16, 2010 to evidence and support their contention in their Motion to Dismiss that they are in full compliance of their NPDES permit

and the Illinois Environmental Protection Act, and that Complainants' Complaint should be dismissed as failing to state a cause of action.

WHEREFORE, Respondents GARY D. HILL, VILLA LAND TRUST, and PRAIRIE LIVING WEST, LLC, requests that the Pollution Control Board dismiss the Complaint filed by Rolf Schilling, Pam Schilling and Suzzane Venturra, dismiss Defendants Villa Land Trust and Gary D. Hill, that the Board award Respondents reasonable attorney's fees and costs, and for such further relief as the Board deems proper.

WINTERS, BREWSTER, CROSBY AND SCHAFFER LLC

By: _____


Molly Wilson Dearing
Attorney for Respondents
ARDC No. 6296030

WINTERS, BREWSTER, CROSBY and SCHAFFER LLC
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 • (217) 782-2829
James R. Thompson Center, 100 West Randolph, Suite 11-300, Chicago, IL 60601 • (312) 814-6026

PAT QUINN, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

September 16, 2010

618/993-7200

Prairie Living West (Phase II), Carbondale
NPDES Permit No. ILR10L134
Construction Site Stormwater Inspection

Prairie Living West (Phase II), Carbondale
Gary Hill, Owner Representative
2150 W. Main Street
Carbondale, IL 62901

Dear Mr. Hill:

The Illinois Environmental Protection Act provides that a statewide program be established to restore, protect, and enhance the quality of the environment. Consequently, in support of this Agency's programs to prevent water pollution, an inspection of your construction site was conducted on June 10, 2010, by Environmental Protection Specialist Ron Rodgers, representing this Agency. Ron Albers, Project Manager, was interviewed and accompanied our representative during his inspection.

The purpose of this inspection was to evaluate compliance with the terms and conditions of your National Pollutant Discharge Elimination System (NPDES) Permit ILR10L134 and as a follow-up to a March 26, 2010 inspection that documented deficiencies with your SWPPP (Stormwater Pollution Prevention Plan), as well as on site erosion and stabilization practices.

This inspection and records review documented improvements in both your SWPPP and on site erosion and stabilization practices.

1. A completed SWPPP was available for review and was satisfactory at the time of inspection.
2. Soil stabilization practices had been implemented including the placement of erosion blankets on road shoulders and seeding of previously bare soils.
3. Erosion control structures had been completed as per the site diagram. A flow restrictor had been placed in the outlet manhole structure, a rock check dam had been placed across the west end of the impoundment structure, and rock had been added at the storm drains and impoundment outlets.
4. Silt fencing was in repair and was satisfactory at the time of inspection.

The following recommendations are offered to assist you in maintaining compliance with your NPDES permit and improve the quality of the stormwater that flows off your site.

1. Monitor and reseed areas that supported minimal to no growth on June 10, 2010. This included an area south of the impoundment structure. Continue placement of erosion protection on areas that support minimal to no vegetative growth.

Rockford • 4302 N. Main St., Rockford, IL 61103 • (815) 987-7760

Elgin • 595 S. State, Elgin, IL 60123 • (847) 608-3131

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Exhibit

A

Prairie Living West (Phase II), Carbondale
NPDES Permit No. ILR10L134
Construction Site Stormwater Inspection
September 16, 2010
Page 2

2. A weir with a flow restrictor has been installed in the impoundment basin outlet manhole structure. However, no impoundment water elevation control device existed at the time of inspection. Weir plates installed in the restrictor would allow control of the water elevation in the impoundment and should be considered.
3. Monitor, and repair if needed, silt fencing and other erosion control structures used on site.

If you have any questions or if we can be of additional assistance, contact Ron Rodgers or me at 618/993-7200.

Sincerely,

ENVIRONMENTAL PROTECTION AGENCY



Byron D. Marks, P.E.
Regional Manager
Division of Water Pollution Control
Bureau of Water

BDM:RMR:jkb/2479w/09-16-10

cc: Horve Contractors