

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUN 06 2011  
STATE OF ILLINOIS  
Pollution Control Board

SCOTT MAYER )  
)  
Complainant, )  
)  
v. )  
)  
LINCOLN PRAIRIE WATER COMPANY, )  
KORTE & LUITJOHAN CONTRACTORS, )  
INC., and, MILANO & GRUNLOH )  
ENGINEERS, LLC, )  
)  
Respondents. )

PCB No. 2011-022

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RESPONSE TO AFFIRMATIVE DEFENSES  
OF RESPONDENT, LINCOLN PRAIRIE WATER COMPANY

Now comes the Complainant, Scott Mayer, by his Attorney, F. James Roytek, III of Roytek, Ltd., and as his Response to Affirmative Defenses of Respondent, Lincoln Prairie Water Company, states as follows:

1. On May 27, 2011, Respondent, Lincoln Prairie Water Company, filed herein, Answer to Complaint.

2. At pages five through eight of Answer to Complaint, Respondent, Lincoln Prairie Water Company includes three Affirmative Defenses.

EXCESS DAMAGES

3. Notwithstanding the allegations in Complaint, Petitioner denies Respondent's First Affirmative Defense as such is not the status of the law before the Illinois Pollution Control Board.

FAILURE TO MITIGATE

4. Notwithstanding the allegations in Complaint, Petitioner

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denies Respondent's Second Affirmative Defense and further notes that the tilling of the soil in question causes the migration of wire to other parts of the field.

ASSUMPTION OF THE RISK

ORIGINAL

5. Notwithstanding the allegations in Complaint, Petitioner denies Respondent's Third Affirmative Defense and further notes that the tilling of the soil in question causes the migration of wire to other parts of the field.

Dated: May 31, 2011.

SCOTT MAYER, Complainant

ROYTEK, LTD.

  
\_\_\_\_\_  
F. JAMES ROYTEK, III, Attorney  
for SCOTT MAYER

F. James Roytek, III  
Roytek, Ltd.  
921 Broadway  
P.O. Box 746  
Mattoon, IL 61938-0746

Telephone: 217/234-3132

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**STATE OF ILLINOIS  
Pollution Control Board**

CERTIFICATE OF SERVICE

I hereby certify that I did on May 31, 2011, cause to be served by U.S. Mail, enclosed in an envelope, with postage thereon fully prepaid, by depositing in a United States Post Office Box, in Mattoon, Illinois, a true and correct copy of the following instrument entitled RESPONSE TO AFFIRMATIVE DEFENSE OF RESPONDENT, LINCOLN PRAIRIE WATER COMPANY upon the persons listed on service list.

  
\_\_\_\_\_  
F. JAMES ROYTEK, III, Attorney  
for Complainant, SCOTT MAYER

This filing is submitted on recycled paper.

SERVICE LIST

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**STATE OF ILLINOIS**  
**Pollution Control Board**

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Honorable Carol Webb  
Hearing Officer  
Illinois Pollution Control Board  
P.O. Box 19274  
Springfield, IL 62794-9274

Milano & Grunloh Engineers, LLC  
c/o Mr. Kirk A. Holman  
Livingston, Barger, Brandt & Schroeder  
Attorneys at Law  
P.O. Box 3457  
Bloomington, IL 61702-3457

Lincoln Prairie Water Company  
c/o Mr. Jerry McDonald  
Campbell, Black, Carnine, Hedin,  
Ballard & McDonald, P.C.  
Attorneys at Law  
P.O. Drawer C  
Mt. Vernon, IL 62864

Korte & Luitjohan Contractors, Inc.  
c/o Mr. Keith E. Fruehling  
Heyl, Royster, Voelker & Allen  
P.O. Box 129  
Urbana, IL 61803-0129

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STATE OF ILLINOIS  
Pollution Control Board

THE LAW OFFICE OF  
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[Royteklaw.com](http://Royteklaw.com)

May 31, 2011

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Pollution Control Board, Attn: Clerk  
100 West Randolph Street  
James R. Thompson Center, Suite 11-500  
Chicago, IL 60601-3218

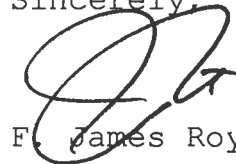
Re: Scott Mayer v. Lincoln Prairie Water Company, et al.  
PCB No.: 2011-022  
RL 10551

Dear Clerk:

Enclosed please find original and ten copies of Response to Affirmative Defenses of Respondent, Lincoln Prairie Water Company Certificate of Service and Service List. Please file the originals and return one file-stamped copy in the enclosed self-addressed envelope which has postage affixed.

Thank you for your assistance.

Sincerely,



F. James Roytek, III

FJR:dg

cc: Honorable Carol Webb  
Mr. Jerome E. McDonald  
Mr. Kirk A. Holman  
Mr. Keith E. Fruehling

enc.