

F. JAMES ROYTEK, III

THE LAW OFFICE OF
ROYTEK, LTD.
921 BROADWAY AVENUE
P. O. BOX 746
MATTOON, ILLINOIS 61938-0746

Roytekltd@mchsi.com
Royteklaw.com

June 7, 2011

TELEPHONE: 217/234-3132
FACSIMILE: 217/234-3135

ORIGINAL

RECEIVED
CLERK'S OFFICE

JUN 09 2011

STATE OF ILLINOIS
Pollution Control Board

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 each of the following:

Response to Affirmative Defenses of Respondent, Korte & Luitjohan Contractors, Inc.;

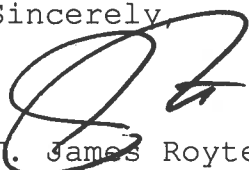
Response to Affirmative Defenses of Respondent, Milano & Grunloh Engineers, LLC;

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.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JUN 09 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

ORIGINAL

RESPONSE TO AFFIRMATIVE DEFENSES
OF RESPONDENT, KORTE & LUITJOHAN CONTRACTORS, INC.

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, Korte & Luitjohan Contractors, Inc., states as follows:

1. On June 3, 2011, Respondent, Korte & Luitjohan Contractors, Inc, filed herein, Answer to Complaint and Affirmative Defenses.

2. At pages seven through eleven of Answer to Complaint and Affirmative Defenses, Respondent, Korte & Luitjohan Contractors, Inc. 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 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

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.

STATUTE OF LIMITATIONS

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

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

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JUN 09 2011

STATE OF ILLINOIS
Pollution Control Board

PCB No. 2011-022

ORIGINAL

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

RESPONSE TO AFFIRMATIVE DEFENSES
OF RESPONDENT, MILANO & GRUNLOH ENGINEERS, LLC

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, Milano & Grunloh Engineers, LLC, states as follows:

1. On June 7, 2011, Respondent, Milano & Grunloh Engineers, LLC, filed herein, Answer and Affirmative Defenses.
2. At pages six through nine of Answer and Affirmative Defenses, Respondent, Milano & Grunloh Engineers, LLC, 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

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

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


RECEIVED
CLERK'S OFFICE

JUN 09 2011

STATE OF ILLINOIS
Pollution Control Board

CERTIFICATE OF SERVICE

I hereby certify that I did on June 7, 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 Defenses of Respondent, Korte & Luitjohan Contractors, Inc.; and, Response to Affirmative Defenses of Respondent, Milano & Grunloh Engineers, Inc., upon the persons listed on service list.



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

ORIGINAL

This filing is submitted on recycled paper.

SERVICE LIST

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

RECEIVED
CLERK'S OFFICE
JUN 09 2011
STATE OF ILLINOIS
Pollution Control Board

ORIGINAL

