

06405-R7018  
KEF/dkl

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SCOTT MAYER,	)	
	)	
Complainant,	)	
	)	
vs.	)	PCB 2011-022
	)	
LINCOLN PRAIRIE WATER COMPANY,	)	
KORTE & LUITJOHAN CONTRACTORS, INC.,	)	
and MILANO & GRUNLOH ENGINEERS, LLC.	)	
	)	
Respondents.	)	

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STATE OF ILLINOIS  
Pollution Control Board

**RESPONSE TO MOTION TO COMPEL**

NOW COMES the Respondent, KORTE & LUITJOHAN CONTRACTORS, INC., by its attorney, KEITH E. FRUEHLING of HEYL, ROYSTER, VOELKER & ALLEN, and hereby provides its formal response to the Motion for Order Compelling Respondent to Answer Interrogatories (hereafter referred to as "Motion to Compel") by the Complainant, SCOTT MAYER, and in further support thereof, states as follows:

1. On July 31, 2012, this Respondent received Complainant's Motion to Compel.
2. Complainant's motion seeks an Order from the Court compelling this Respondent to answer supplemental interrogatories. Specifically, Complainant seeks an Order mandating that this respondent provide information that is irrelevant to any issue present in this case. Moreover, the information sought is not likely to lead to the discovery of admissible evidence in this case.

3. On June 15, 2012, this Respondent objected to each of the Complainant's Supplemental Interrogatories on the basis that they were "irrelevant, and unlikely to lead to the discovery of admissible evidence."

4. The information that the Complainant seeks is "the amount charged by KORTE & LUITJOHAN CONTRACTORS, INC. for trenching and laying the waterline across the Mayer real estate in question."; and, "of the amount charged for trenching and laying waterline across the aforesaid Mayer real estate, ... the dollar amount attributable to trenching and filling the trench after the waterline had been put into place."

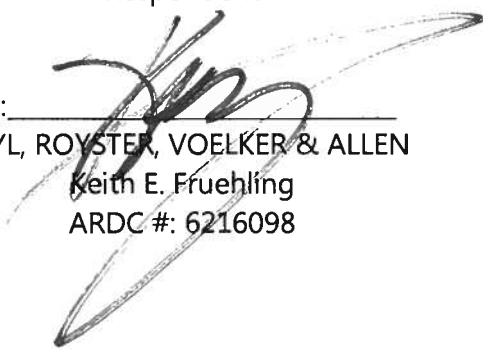
5. There are no issues raised by the Complainant's petition before this Board that would make the information requested relevant. The facts sought do not relate in any way to the statutory and regulatory framework governing an analysis of whether what this Respondent is alleged to have done constitutes "open dumping". Moreover, it does not relate in any way to the possible penalties available to the Board in the unlikely event that a violation of subsection (p) of Section 21 is found. Third, the request itself is based on an undisclosed, speculative opinion/theory by Plaintiff's "expert witness".

6. In short, the costs associated with the work that performed in 2005 are irrelevant to this case.

WHEREFORE, the Respondent, KORTE & LUITJOHAN CONTRACTORS, INC., respectfully request that the Board and / or hearing officer deny the Complainant, SCOTT MAYER's, Motion for Order Compelling Respondent to Answer Interrogatories, and any other relief that this Board/Hearing Officer deems fit.

Respectfully submitted,

KORTE & LUITJOHAN CONTRACTORS, INC.,  
Respondent

BY:   
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**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing **RESPONSE TO MOTION TO COMPEL** was served upon the attorneys of all parties to the above cause by enclosing the same in an envelope addressed to such attorneys at their business address as disclosed by the pleadings of record herein, with postage fully prepaid, and by depositing said envelope in a U.S. Post Office Box in Urbana, Illinois, on the 13th day of August, 2012.

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