

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. )  
)  
MONTALBANO BUILDERS, INC., an )  
Illinois corporation, CORTLAND-I-88, L.L.C., )  
an Illinois limited liability company, and )  
MBC XIV, LLC, a revoked Delaware limited )  
liability company, and RB RESOLUTION )  
PROPERTIES, LLC, an Illinois limited liability )  
company, )  
)  
Respondents. )

PCB No. 10-20  
(Enforcement-Water)

 ORIGINAL

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OCT 28 2013  
STATE OF ILLINOIS  
Pollution Control Board

NOTICE OF FILING

TO: See attached Service List

PLEASE TAKE NOTICE that on October 28, 2013, the undersigned filed the Answer to Second Amended Complaint of respondent RB Resolution Properties, LLC's, copies of which are herewith served upon you.

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Michael B. Bregman  
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312-263-3890  
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OCT 28 2013

STATE OF ILLINOIS  
Pollution Control Board

CERTIFICATE OF SERVICE

I, Carolyn Hackett, do hereby certify that, on October 28, 2013, I caused to be served on the individuals listed above, by first class mail, a true and correct copy of the attached Answer RB Resolution Properties to Second Amended Complaint, by having true and correct copies affixed with proper postage placed in the U.S. Mail at 222 N. LaSalle St., Chicago, Illinois, 60601, at or before 5:00 pm.

Carolyn Hackett

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**ANSWER OF RB RESOLUTION PROPERTIES TO  
SECOND AMENDED COMPLAINT**

NOW COMES the Respondent, RB RESOLUTION PROPERTIES, LLC ("RB Resolution"), by its attorneys, Ruff, Weidenaar & Reidy, Ltd., and for its Answer to the Second Amended Complaint, states as follows:

**COUNT 1**

**CAUSE, THREATEN OR ALLOW WATER POLLUTION**

1. The Complaint against Montalbano Builders, Inc. is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2012).

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 1 and therefore neither admits nor denies same but demand strict proof thereof.

2. The Complaint against MBC XIV, LLC, CORTLAND-I-88, LLC, RB RESOLUTION PROPERTIES, LLC, and DOUGLAS J. JOHNSON, is brought on behalf of the People of the State of Illinois by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion.

**ANSWER:** RB Resolution admits the allegations of paragraph 2.

3. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2012), and charged, *inter alia*, with the duty of enforcing the Act. The Illinois EPA is further charged with the duty to abate violations of the National Pollutant Discharge Elimination System (“NPDES”) Permit Program under the Federal Clean Water Act (“CWA”), 33 U.S.C. §1342 (b)(7).

**ANSWER:** RB Resolution admits that the Illinois EPA is an administrative agency of the State of Illinois created pursuant to statute. RB Resolution denies the balance of the allegations of paragraph 3 as legal conclusions of the pleader.

4. At all times relevant to the Second Amended Complaint, Montalbano Builders, Inc. (“Montalbano”), was an Illinois corporation. On information and belief, Montalbano was involuntarily dissolved by the Illinois Secretary of State on September 9, 2011.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 4 and therefore neither admits nor denies same but demands strict proof thereof.

5. At all times relevant to the Second Amended Complaint, Respondent Cortland-I-88. L.L.C. (“Cortland”), has been an Illinois limited liability company.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 5 and therefore neither admits nor denies same but demands strict proof thereof.

6. At all times relevant to the Second Amended Complaint, Respondent MBC XIV, LLC (“MBC XIV”), has been a Delaware limited liability corporation, whose right to do business within the State of Illinois was revoked by the Illinois Secretary of State.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 6 and therefore neither admits nor denies same but demands strict proof thereof.

7. At all times relevant to the Second Amended Complaint, Respondent RB Resolution Properties, LLC (“RB Resolution Properties”), has been an Illinois limited liability corporation.

**ANSWER:** RB Resolution admits that it is currently an Illinois limited liability corporation formed on April 9, 2009. RB Resolution denies the balance of the allegations of paragraph 7.

8. At all times relevant to the Second Amended Complaint, Respondent Douglas J. Johnson (“Johnson”), has been a resident of the State of Illinois who resides at 1811 West Forestview Drive, Sycamore, DeKalb County, Illinois.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 8 and therefore neither admits nor denies same but demands strict proof thereof.

9. At all times relevant to the Second Amended Complaint, Respondent Montalbano was engaged in the development of a 378-lot residential subdivision known as Mission Oaks,

composed of both single family and duplex homes, on 187 acres of land, which is located on the south side of Route 38 East, near the intersection of Route 38 and Hahn Drive, in Cortland, DeKalb County, Illinois ("Site"). In 2006, on a date better known to Respondent Montalbano, Montalbano commenced grading work and other activities at the Site.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 9 and therefore neither admits nor denies same but demands strict proof thereof.

10. The Union Ditch, a drainage ditch, which is located off site, receives runoff from a large detention pond which is located at the southeast corner of the Site ("Detention Pond"). Stormwater which is generated onsite flows into the storm sewer inlets located at the Site, where the stormwater then enters the Site's storm sewer system, which then conveys the collected stormwater into the Detention Pond. The stormwater which is collected in the Detention Pond is ultimately discharged into the Union Ditch.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 10 and therefore neither admits nor denies same but demands strict proof thereof.

11. As of the date of the filing of this Second Amended Complaint, while grading and excavating work has been completed for most, if not all, of the Site, only 18 homes have been constructed and the balance of the Site has neither been developed nor have the graded portions of the Site achieved final stabilization. Also as of the date of the filing of this Second Amended Complaint, no development or construction activities are currently being conducted at the Site.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 11 and therefore neither admits nor denies same but demands strict proof thereof.

12. On information and belief, Respondent Montalbano was initially the owner of the entire Site. On further information and belief, on dates better known to the Respondents, Respondent Montalbano either conveyed portions of the Site to Respondents MBC XIV, Cortland, RB Resolution, and Johnson; or, Respondents MBC XIV, Cortland, RB Resolution, and Johnson otherwise obtained their portions of the Site through means better known to the Respondents.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 12 and therefore neither admits nor denies same but demands strict proof thereof. Petitioner's complaint fails to provide a legal description of the subject real estate.

13. Based on property records maintained by the DeKalb County Assessor, Respondent Montalbano is and has been, beginning on a date better known to Montalbano, the owner of certain parcels of real property located at the Site, including but not limited to, the following parcels of property, which are identified in the DeKalb County Assessor's records as Parcel Numbers 0928351014, 0928351015, 0928351016, 0928352001, and 0933128030. Also on information and belief, Respondent Montalbano owns approximately 119 vacant, graded lots on which single family homes were to be built. These lots are located within two separate portions of the Site. The first group of vacant, graded lots is bounded by East Stratford Avenue to the north, South Preston Street to the west, East Lexington Avenue to the south, and South Hampstead street to the east. The second group of vacant, graded lots is bounded by East



Lexington Avenue to the north, South Greenbrier Street to the west, East Fairview Drive to the south, and South Braxton Drive to the east.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 13 and therefore neither admits nor denies same but demands strict proof thereof. Any such public records speak for themselves.

14. Based on property records maintained by the DeKalb County Assessor, Respondent Cortland is and has been, beginning on a date better known to Cortland, the owner of certain parcels of real property located at the Site, which are identified in the DeKalb County Assessor's records as Parcel Numbers 0928351006, 0928351011, 0928351013, and 093310007.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 14 and therefore neither admits nor denies same but demands strict proof thereof. Any such public records speak for themselves.

15. Based on property records maintained by the DeKalb County Assessor, Respondent MBC XIV is and had been, beginning on a date better known to MBC XIV, the owner of approximately 96 parcels of real property located at the Site, which are located in the area bounded on the south, by the south side of Ashford Drive, on the north by the south side of East Fairview Drive, on the west, by the west side of South Greenbrier Street, and on the east by the east side of South Braxton Street.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 15 and therefore neither admits nor

denies same but demands strict proof thereof. Any such public records speak for themselves.

16. Based on property records maintained by the DeKalb County Assessor, Respondent RB Property Solutions is and has been, beginning on a date better known to RB Property Solutions, the owner of that certain parcel of real property which is identified in the DeKalb County Assessor's records as Parcel Number 0933100009.

**ANSWER:** RB Resolution admits that by Warranty Deed dated October 24, 2011, and recorded in the office of the DeKalb Recorder on December 20, 2011, as document no. 2011013620 MBC XIV, LLC, conveyed to RB Resolution Properties, LLC – Chestnut Grove Series, an Illinois limited liability company, title to real estate commonly known as 40 acres in Chestnut Grove Subdivision, Unit 1, Cortland, DeKalb County, IL, Parcel No. 09-33-100-009, and legally described as set forth in said Warranty Deed.

17. Based on property records maintained by the DeKalb County Assessor, Respondent Johnson is and has been, beginning on a date better known to Johnson, the owner of that certain parcel of real property located at the Site, which is identified in the DeKalb County Assessor's records as Parcel Number 0933181015.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 17 and therefore neither admits nor denies same but demands strict proof thereof. Any such public records speak for themselves.

18. On June 19, 2006, Montalbano submitted to the Illinois EPA a notice of intent ("NOI") for coverage under the NPDES stormwater permit for the Site, as listed on

Montalbano's NOI, is Union Ditch. Stormwater discharges at the Site discharge directly to a storm sewer and eventually flow into Union Ditch.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 18 and therefore neither admits nor denies same but demands strict proof thereof.

19. On July 19, 2006, the Illinois EPA granted Montalbano coverage under NPDES Permit No. ILR10F880 for stormwater discharges associated with construction activities at the Site ("Permit").

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 19 and therefore neither admits nor denies same but demands strict proof thereof.

20. On May 9, 2008, an inspector with the DeKalb County Soil and Water Conservation District ("District") inspected the Site ("May 9<sup>th</sup> Inspection"). The purpose of the May 9<sup>th</sup> Inspection was to determine the effectiveness of the soil erosion and sediment control measures which Respondent Montalbano was employing at the Site to prevent water pollution and to review Montalbano's compliance with the terms and conditions of the Permit.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 20 and therefore neither admits nor denies same but demands strict proof thereof.

21. At the time of the May 9<sup>th</sup> Inspection, the following conditions were present at the Site:

- a) Sediment was flowing out of the Detention Pond and into Union Ditch;
- b) The entire Site evidenced a lack of stabilization and erosion control measures;

- c) Severe bank erosion was occurring in the Detention Pond, primarily on the north bank of the pond;
- d) Sediment traps were not being maintained; and
- e) Stormwater channels at the Site had not been stabilized.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 21, subparagraphs (a) through (d) inclusive, and therefore neither admits nor denies same but demands strict proof thereof.

22. On May 14, 2008, an inspector from Illinois EPA conducted an inspection of the site ("May 14<sup>th</sup> Inspection"). The purpose of the May 14<sup>th</sup> Inspection was to observe the erosion control measures being employed by Respondent Montalbano at the Site.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 22 and therefore neither admits nor denies same but demands strict proof thereof.

23. At the time of the May 14<sup>th</sup> Inspection the following conditions were present at the Site:

- a) The Site was in very poor condition with areas which had been subjected to mass grading having been left unstabilized;
- b) The Detention Pond was carrying a heavy sediment load as evidenced by the sandy color of the water and sediment that was building up and fanning out at the inlet;
- c) There was severe erosion to the bank of the Detention Pond in the area of the western inlet; and
- d) Effluent was flowing from the Detention Pond and discharging into Union Ditch as evidenced by the visible sediment plume in the ditch.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 23, subparagraphs (a) through (d) inclusive, and therefore neither admits nor denies same but demands strict proof thereof.

24. On November 3, 2008, an Illinois EPA inspector conducted another inspection of the Site (“November 3<sup>rd</sup> Inspection”). The purpose of the November 3<sup>rd</sup> Inspection was to observe the erosion control measures being employed by Respondent Montalbano at the Site.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 24 and therefore neither admits nor denies same but demands strict proof thereof.

25. At the time of the November 3<sup>rd</sup> Inspection, the following conditions were present at the Site:

- a) No stabilization measures had been employed at the Site;
- b) Erosion of graded areas was occurring;
- c) Sediment and dirt was visible on streets throughout the Site;
- d) Sediment controls at the stormwater inlets throughout the Site were not being maintained, so that stormwater runoff and sediment from unstabilized areas could breach stormwater inlets on the Site; and
- e) Sediment and erosion control measures for the Detention Pond either had not been installed or were not being properly maintained, such that sediment from areas adjacent to the Detention Pond were being allowed to flow into the pond.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 25, subparagraphs (a) through (e) inclusive, and therefore neither admits nor denies same but demands strict proof thereof.

26. On July 13, 2009, the Illinois EPA conducted another inspection of the Site, in order to determine the overall compliance status of the Site (“July 13<sup>th</sup> Inspection”).

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 26 and therefore neither admits nor denies same but demands strict proof thereof.

27. At the time of the July 13<sup>th</sup> Inspection, the following conditions were present at the Site;

- a) A black corrugated stand pipe installed to prevent discharge from the Detention Pond has been punctured in several places and was allowing sediment-laden water to discharge into the Union Ditch;
- b) Sediment was being discharged from the Detention Pond into the Union Ditch; and
- c) The water level in the Detention Pond was several feet lower than had been the case during prior Illinois EPA inspections of the Site.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 27, subparagraphs (a) through (c) inclusive, and therefore neither admits nor denies same but demands strict proof thereof.

28. On June 28, 2010, the Illinois EPA conducted another inspection of the Site to determine the overall compliance status of the Site (“June 28<sup>th</sup> Inspection”).

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 28 and therefore neither admits nor denies same but demands strict proof thereof.

29. At the time of the June 28<sup>th</sup> Inspection, the following conditions were present at the Site:

- a) Inlet controls at the Site were in need of maintenance;
- b) Large portions of the Site had not been stabilized; and
- c) No information about the Permit was posted at the Site.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 29, subparagraphs (a) through (c) inclusive, and therefore neither admits nor denies same but demands strict proof thereof.

30. On May 24, 2012, Illinois EPA conducted another inspection of the Site (“May 24<sup>th</sup> Inspection”), in order to determine the overall compliance status of the Site.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 30 and therefore neither admits nor denies same but demands strict proof thereof.

31. At the time of the May 24<sup>th</sup> Inspection, the following conditions were present at the Site:

- a) No construction activities were taking place at the Site, nor was any construction equipment present thereon;
- b) Soil on large portions of the site continued to be unstabilized; and
- c) Inlet controls in the vicinity of Lexington and Hampstead streets, which are located within the Site, were in disrepair and were failing.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 31, subparagraphs (a) through (c) inclusive, and therefore neither admits nor denies same but demands strict proof thereof.

32. On March 29, 2013, Illinois EPA and the District conducted an inspection of the Site (“March 29<sup>th</sup> Inspection”). The March 29<sup>th</sup> Inspection was undertaken for the purpose of determining the Site’s current compliance status.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 32 and therefore neither admits nor denies same but demands strict proof thereof.

33. At the time of the March 29<sup>th</sup> Inspection:
- a) Large portions of the Site continued to be unstabilized, including the portions of the Site respectively owned by each of the respondents;
  - b) Additionally, at the time of March 29<sup>th</sup> Inspection, the Detention Pond showed signs of erosion and was in need of maintenance; and
  - c) Gravel and dirt unfinished and unpaved portions of the Site were visible on paved streets within the Site.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 33, subparagraphs (a) through (c) inclusive, and therefore neither admits nor denies same but demands strict proof thereof.

34. As of the date of the filing of this Second Amended Complaint, Respondent Montalbano continues to hold the Permit for the entire Site and therefore has the obligation to ensure compliance with the Permit.

**ANSWER:** RB Resolution has no knowledge sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 34 and therefore neither admits nor denies same but demands strict proof thereof.

35. Section 12(a) of the Act, 415 ILCS 5/12(a) (2012), provides as follows:

No persons shall:

- a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

**ANSWER:** The allegations of paragraph 35 state only conclusions of law and are denied.

36. Section 3.315 of the Act, 415 ILCS 5/3.315 (2012), provides as follows:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision state agency or any other legal entity, or their legal representative, agent or assigns.



**ANSWER:** The allegations of paragraph 36 state only conclusions of law and are denied.

37. Respondents Montalbano, MBC XIV, Cortland, RB Resolution Properties, and Johnson are each a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2012).

**ANSWER:** The allegations of paragraph 37 state only conclusions of law and are denied.

38. Section 3.165 of the Act, 415 ILCS 5/3.165 (2012), provides as follows:

“CONTAMINANT” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

**ANSWER:** The allegations of paragraph 38 state only conclusions of law which are denied.

39. The Sediment which is generated by stormwater coming into contact with the graded and unstabilized portions of the Site is a “contaminant,” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2012).

**ANSWER:** The allegations of paragraph 39 state only conclusions of law which are denied.

40. Section 3.550 of the Act, 415 ILCS 5/3.550 (2012), provides as follows:

“WATERS” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon the State.

**ANSWER:** The allegations of paragraph 40 state only conclusions of law which are denied.

41. The Detention Pond and the Union Ditch into which the sediment discharges, each constitute “waters”, as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2012).

**ANSWER:** The allegations of paragraph 41 state only conclusions of law which are denied.

42. Section 3.545 of the Act, 415 ILCS 5/3.545 (2012), provides as follows:

“WATER POLLUTION” is such alteration of the physical thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety, or welfare, or domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

**ANSWER:** The allegations of paragraph 42 state only conclusions of law which are denied.

43. The sediment which is discharged into the Site’s stormwater sewer system and which is discharged into the Detention Pond and, which ultimately discharges into the Union Ditch, creates “water pollution,” as that term is defined by Section 3.545 of the Act, 415 ILCS 5/3.545 (2012).

**ANSWER:** The allegations of paragraph 43 state only conclusions of law which are denied.

44. By allowing disturbed soils at the Site to remain unstabilized and, further, by failing to implement adequate erosion control measures for the portions of the Site that each Respondent owns the Respondents have caused, threatened or allowed the discharge of a contaminant into the waters of the state.

**ANSWER:** RB Resolution denies the allegations of paragraph 44.

45. By causing, threatening or allowing sediment from the Site, a “contaminant,” to eventually discharge into the Detention Pond and the Union Ditch, which are each a “water” of

the State, each of the Respondents caused, threatened or allowed water pollution in Illinois, in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2012).

**ANSWER:** RB Resolution denies the allegations of paragraph 45.

WHEREFORE, the Respondent, RB RESOLUTION PROPERTIES, LLC, denies that the Complainant, PEOPLE OF THE STATE OF ILLINOIS, is entitled to the relief requested in the Second Amended Complaint or to any relief whatsoever as to this Respondent and prays for a ruling in its favor and against the Complainant.

**COUNT II: OFFENSIVE CONDITIONS**

**(Alleged Against Respondent Montalbano Only)**

RB Resolution offers no answer to the allegations of Count II, which are not directed to RB Resolution. To the extent such allegations are directed against RB Resolution, RB Resolution denies them.

WHEREFORE, the Respondent, RB RESOLUTION PROPERTIES, LLC, denies that the Complainant, PEOPLE OF THE STATE OF ILLINOIS, is entitled to the relief requested in the Second Amended Complaint or to any relief whatsoever as to this Respondent and prays for a ruling in its favor and against the Complainant.

**COUNT III: CREATING A WATER POLLUTION HAZARD**

**(Alleged Against Respondent Montalbano Only)**

RB Resolution offers no answer to the allegations of Count III, which are not directed to RB Resolution. To the extent such allegations are directed against RB Resolution, RB Resolution denies them.

WHEREFORE, the Respondent, RB RESOLUTION PROPERTIES, LLC, denies that the Complainant, PEOPLE OF THE STATE OF ILLINOIS, is entitled to the relief requested in the

Second Amended Complaint or to any relief whatsoever as to this Respondent and prays for a ruling in its favor and against the Complainant.

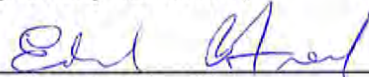
**COUNT IV: FAILURE TO COMPLY WITH THE TERMS AND CONDITIONS  
OF THE NPDES PERMIT**

**(Alleged Against Respondent Montalbano Only)**

RB Resolution offers no answer to the allegations of Count IV, which are not directed to RB Resolution. To the extent such allegations are directed against RB Resolution, RB Resolution denies them.

WHEREFORE, the Respondent, RB RESOLUTION PROPERTIES, LLC, denies that the Complainant, PEOPLE OF THE STATE OF ILLINOIS, is entitled to the relief requested in the Second Amended Complaint or to any relief whatsoever as to this Respondent and prays for a ruling in its favor and against the Complainant.

Respectfully submitted,



Attorneys for Respondent  
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