

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

UNITED CITY OF YORKVILLE,)	
A MUNICIPAL CORPORATION,)	
)	
Complainant,)	
)	
v.)	PCB No. 08-96
)	(Enforcement- Land, Air, Water)
)	
HAMMAN FARMS,)	
)	
Respondents.)	

NOTICE OF FILING

TO: SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that on September 16, 2009, we electronically filed with the Clerk of the Illinois Pollution Control Board, **Complainant's Response to Respondent's Motion to Strike**, a copy of which is attached hereto and hereby served upon you.

Dated: September 16, 2009

Respectfully submitted,

UNITED CITY OF YORKVILLE

/s/ Michelle M. LaGrotta

One of Its Attorneys

Thomas G. Gardiner
Michelle M. LaGrotta
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THIS FILING IS SUBMITTED ON RECYCLED PAPER

CERTIFICATE OF SERVICE

I, Michelle M. LaGrotta, the undersigned certify that on September 16, 2009, I have served the attached **RESPONSE TO HAMMAN FARMS' MOTION TO STRIKE YORKVILLE'S ANSWER TO AFFIRMATIVE DEFENSES TO COUNT IV**, upon:

Mr. John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601-3218
(via U.S. Mail and electronic filing)

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 W Randolph Street
Chicago, IL 60601
(via U.S. Mail)

Charles F. Helsten
Nicola A. Nelson
Hinshaw & Culbertson
100 Park Avenue
P.O. Box 1389
Rockford, IL 61105-1389
(via email to: NNelson@hinshawlaw.com and CHelsten@hinshawlaw.com, and U.S. Mail)

/s/ Michelle M. LaGrotta_____

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

UNITED CITY OF YORKVILLE,)	
A MUNICIPAL CORPORATION,)	
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Complainant,)	
)	PCB No. 08-96
v.)	(Enforcement- Land, Air, Water)
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HAMMAN FARMS,)	
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**COMPLAINANT'S RESPONSE TO RESPONDENT'S MOTION TO STRIKE
YORKVILLE'S ANSWER TO HAMMAN FARMS AFFIRMATIVE DEFENSES TO
COUNT IV**

NOW COMES the Complainant, UNITED CITY OF YORKVILLE, by and through its attorneys, GARDINER KOCH WEISBERG & WRONA, and for its RESPONSE TO RESPONDENT'S MOTION TO STRIKE YORKVILLE'S ANSWERS TO AFFIRMATIVE DEFENSES TO COUNT IV, it states as follows:

1. Hamman Farms' Motion to Strike Yorkville's Answer to Hamman Farms' Affirmative Defense to Count IV was unnecessary and intended solely to harass and raise Yorkville's litigation cost. Hamman Farms completely disregards the last sentence of each of the United City of Yorkville's Answers, which states, respectively, "Complainant denies Affirmative Defense Number 1" and "Complainant denies Affirmative Defense Number 2." As such, Yorkville's Answer complies with the rules governing answers set forth in 35 Ill. Adm. Code §103.204(d). See also, 735 ILCS 2/5-610(a) (stating, "Every answer and subsequent pleading shall contain an explicit admission or denial of each allegation of the pleading to which it relates.") A cursory reading of these Answers shows that Yorkville denied each of Hamman Farms' Affirmative

Defenses. While the form of the denial was not to Hamman Farms liking, Yorkville has complied with the Board's requirements. Hamman Farms' motion is merely another attempt by Hamman Farms to delay litigation and drive up costs.

WHEREFORE, United City of Yorkville respectfully requests that the Illinois Pollution Control Board deny Hamman Farms' Motion to Strike Yorkville's Answer to Affirmative Defenses Count IV and grant such other relief as the Board deems just and equitable.

Respectfully submitted,

UNITED CITY OF YORKVILLE

By: /s/ Michelle M. LaGrotta _____
One of Its Attorneys

Dated: September 16, 2009

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