

ILLINOIS POLLUTION CONTROL BOARD  
July 20, 2023

PAUL CHRISTIAN PRATAPAS, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 23-64  
 ) (Citizen's Enforcement - Water)  
 CANTERA DEVELOPMENT HOLDINGS, )  
 LLC, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by M. Gibson):

On November 29, 2022, Paul Christian Pratapas (Mr. Pratapas) filed a citizen's complaint (Comp.) against "Arden of Warrenville" alleging violations of the Environmental Protection Act. On January 12, 2023, the respondent filed a motion requesting that the Board not accept the complaint for failure to properly serve the complaint, as well as a motion to dismiss because the respondent is not a proper party.

On June 1, 2023, the Board granted the respondent's motion to not accept the complaint for failure to properly serve the respondent, and directed Mr. Pratapas to file the required proof of service of the complaint on the respondent no later than July 3, 2023, or face dismissal of the complaint for failure to properly serve the respondent. *See* 35 Ill. Adm. Code 101.304(c), (d); *see also* 35 Ill. Adm. Code 103.204(a).

On June 27, 2023, Mr. Pratapas filed a certified mail receipt indicating that he mailed something to the respondent's registered agent that was received on June 26, 2023 (Cert. Rec.). Mr. Pratapas did not file documentation of what was mailed on June 26, 2023. On July 14, 2023, Mr. Pratapas filed a signed certified mail receipt indicating that the respondent's registered agent received what Mr. Pratapas sent on July 5, 2023.

On July 17, 2023, the respondent filed a second motion to dismiss the complaint. Also on July 17, 2023, Mr. Pratapas filed a response to the respondent's second motion to dismiss.

A total of 233 days have elapsed since Mr. Pratapas initially filed the complaint with the Board. Additionally, the Board has already granted Mr. Pratapas an extension of 30 days to file the required proof of service. The Board notes that for this original complaint, Mr. Pratapas used a sample citizen complaint form, available on the Board's website. The instructions accompanying those forms include detailed steps on how to serve complaints on respondents in accordance with the Board's rules. IPCB Formal Complaint Package (IPCB Form. Comp. Pkg.), pp. 1-4. Mr. Pratapas checked on the form that the complaint would be served on the respondent by "[p]ersonal service and [Mr. Pratapas] will make the personal delivery. However, the affidavit of service is not available to me currently." Comp. at 10. To date, Mr. Pratapas has not filed an affidavit of service. *See* IPCB Form. Comp. Pkg. at 4.

Additionally, the Board's sample complaint form instructions inform potential filers of how to document service of a formal complaint. *See* IPCB Form. Comp. Pkg. at 4. For personal service:

Documentation of Service is either an affidavit of service (for a non-attorney's use & must be notarized) or a certificate of service (for an attorney's use) signed by the person who made the personal delivery. Either of these constitutes documentation of completed service.

However, if this signed affidavit or certificate is not available to you when you file the complaint, you must first provide—with the Formal Complaint filed with the Clerk—another form of Documentation of Service to prove that service had at least been initiated: an affidavit of service or a certificate of service describing how service had been initiated, but not yet completed. Then, when it becomes available to you, you must file the affidavit or certificate of service containing the signature of the person who made the personal delivery and identify the Formal Complaint to which the affidavit or certificate corresponds. *See* 35 Ill. Adm. Code 101.300(c)(1), 101.304(c)(2), (d)(1), 101.Appendix E. *Id.*

For complaints that have been mailed by U.S. postal service or third-party commercial carrier with a recipient's signature recorded upon delivery:

Documentation of Service is the delivery confirmation containing the recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier—this constitutes documentation of completed service.

However, if the delivery confirmation containing the recipient's signature is not available to you when you file the complaint, you must first provide—with the Formal Complaint filed with the Clerk—another form of Documentation of Service to prove that service has at least been initiated: an affidavit of service (for a non-attorney's use & must be notarized) or a certificate of service (for an attorney's use) describing how service had been initiated, but not yet completed. Then, when it becomes available to you, you must file the delivery confirmation containing the recipient's signature and identify the Formal Complaint to which the signed delivery confirmation corresponds. *See* 35 Ill. Adm. Code 101.300(c)(2), 101.304(c)(2), (d)(2), 101.Appendix E. *Id.* (emphasis added).

Mr. Pratapas did not file any documentation of service identifying that the signed delivery confirmation he filed on June 27, 2023 corresponds to the formal complaint in this matter. Mr. Pratapas also failed to file the required proof of service and documentation of service by the extended deadline of July 3, 2023. Because Mr. Pratapas failed to timely file the required proof of service of the complaint, the Board does not accept the complaint and the respondent's motions to dismiss are moot. Therefore, the Board dismisses this case and closes the docket.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2022); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

<b>Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court</b>	
<b>Parties</b>	<b>Board</b>
Paul Christian Pratapas 1779 Kirby Parkway, Ste. 1, #92 Memphis, Tennessee, 38138 paulpratapas@gmail.com	Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 East Van Buren Street, Suite 630 Chicago, Illinois 60605 don.brown@illinois.gov
Greensfelder, Hemker & Gale, P.C. William J. Anaya Thadford A. Felton Koplan Nwabuoku 200 West Madison Street, Suite 3300 Chicago, IL 60606 <a href="mailto:wanaya@greensfelder.com">wanaya@greensfelder.com</a> <a href="mailto:taf@greensfelder.com">taf@greensfelder.com</a> <a href="mailto:knwabuoku@greensfelder.com">knwabuoku@greensfelder.com</a>	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 20, 2023, by a vote of 3-0.



Don A. Brown, Clerk  
 Illinois Pollution Control Board