

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PAUL CHRISTIAN PRATAPAS)
)
 Complainant) PCB 2024-009
)
 v.)
)
 PULTE HOME COMPANY, LLC,)
)
 Respondents.)
)

**RESPONDENTS' MOTION REQUESTING THE POLLUTION CONTROL BOARD
DISMISS THE COMPLAINT AND NOT ACCEPT THE COMPLAINT**

Respondent, PULTE HOME COMPANY, by and through their attorneys, SWANSON, MARTIN & BELL, LLP, respectfully moves the Illinois Pollution Control Board to not accept the Citizen's Formal Complaint in this matter for hearing on the basis the Complaint is insufficiently plead, frivolous, duplicative, and alleges wholly past violations. Additionally, if this Honorable Board allows the complaint to proceed, Respondent seeks its costs and expenses from dismissal of the prior – identical – actions as sanction for complainant's failure to follow prior Board orders.

I. NAPER COMMONS BY PULTE HOME COMPANY, LLC

A. Complaint Fails to Plead Sufficient Facts and Cause of Action

1. Respondent denies any claim that its activities caused or allowed pollution or constitute a violation of Illinois law or regulations.
2. Pursuant to 415 ILCS 5/31(d)(1) and 35 Ill. Adm. Code § 103.212, the Board should not accept a complaint for hearing if the complaint is "frivolous", meaning the Board lacks the authority to grant relief where Complainant failed to state a cause of action.
3. Here, the complainant, an out-of-state citizen fails to state a cause of action upon which the Board can grant relief as required by 35 Ill. Adm. Code § 101.506, 35 Ill. Adm. Code

§ 101.100(b), and 735 ILCS § 5/2-615. Complainant's address is Germantown, Tennessee. (See Complaint, attached as **Exhibit A**, at ¶ 1.)

4. This Board's procedural rules are silent as to pleading requirements to properly state a cause of action.
5. When the Board's procedural rules are silent, the Board may look to the Illinois Code of Civil Procedure for guidance. 35 Ill. Adm. Code § 101.100(b).
6. The Illinois Code of Civil Procedure provides for dismissal when allegations fail to properly plead a cause of action. 735 ILCS 5/2-615; *Pooh-Bah Enterprises, Inc. v. County of Cook*, 232 Ill. 2d 463, 473(2009).
7. Illinois is a fact pleading state. Accordingly, a well-pled complaint must allege all facts necessary to state a legally recognized cause of action. *Adkins v. Sarah Bush Lincoln Health Center*, 129 Ill. 2d 497 (1989). While pleadings are liberally construed, plaintiffs must allege the facts necessary to state a cause of action. *Harris v. Johnson*, 218 Ill. App. 3d 588, 591-92 (2d Dist. 1991).
8. Mere conclusions are insufficient to state a cause of action and are subject to dismissal. *Foxcroft Townhome Owners Ass'n v. Hoffman Rosner Corp.*, 105 Ill. App. 3d 951, 956 (2d Dist. 1982), *aff'd*, 96 Ill. 2d 150, (1983).
9. Here, the Complaint merely recites a list of laws that complainant alleges were violated.
10. Complainant alleges violations of 415 ILCS 5.12(a), 415 ICS 5/12(d), and 35 Ill. Adm. Code § 103.212 without any factual support for these violations (e.g. specifically, how each location violated any of these laws). (See Complaint, Exhibit A, at ¶ 4.)
11. The complaint fails to make factual allegation that **Naper Commons** Pulte Home Company, LLC violated any laws.

12. Tellingly, Paragraph 4 of the Complaint contains a vague, self-serving narrative of discharges; but fails to state the method of purported release or whether the alleged discharges apply specifically to **Naper Commons** or to four other sites listed in the complaint. (*Id.*)
13. Beyond vague and conclusory statements, the Complaint lack necessary facts that **Naper Commons** committed any violation. (*See Id.*)
14. Pointedly, the Complaint merely lists an address for **Naper Commons** and four grainy pictures, without description of any alleged discharges for that site. (*Id.*)
15. As plead, Respondent must guess at what Complainant is asserting.
16. Complainant's pleadings do not comply with Illinois law.
17. Pursuant to 735 ILCS § 5/2-615, Pulte Homes requests this Honorable Board dismiss the complaint, or in the alternative, order Complainant to amend the pleadings to satisfy Illinois law.

B. Wholly Past Violation

18. Respondent recognizes this Honorable Board denied a similar motion contesting the standing of private citizens to separately enforce claims alleging "wholly past violations". Recognizing this Honorable Board's prior ruling, Respondent must bring a similar motion, now, to preserve the issue for appeal. Respondent means no disrespect for reasserting these legal arguments.
19. Pursuant to 415 ILCS 5/31(d)(1) and 35 Ill. Adm. Code § 101.202(b), the Board will not accept a complaint for hearing if the Board finds the complaint is "frivolous", meaning the Board lacks the authority to grant the requested relief.

20. The Complaint alleges wholly past, one-time violations, limited to May 24, 2022 in reference to **Naper Commons** site. (*See* Complaint, attached as Exhibit A, at ¶ 4.)
21. Paragraph 4 of the Complaint alleges violations of 415 ILCS 5.12(a), 415 ICS 5/12(d), and 35 Ill. Adm. Code § 103.212 “on or around May 24, 2022”. (*Id.*)
22. 415 ILCS 5.12(a) addresses water pollution implementing The Federal Water Pollution Control Act, 33 U.S.C. 1251, *et. seq.*
23. The U.S. Supreme Court directly held there is no standing for citizen suits where the relief addresses wholly past violations. *Gwaltney of Smithfield, Ltd v. Chesapeake Bay Foundation, Inc.*, 484 U.S. 49 (1987).
24. In Illinois, citizens only possess authority to enforce statutes as specifically allowed and authorized by statutes. *See Glisson v. City of Marion*, 188 Ill. 2d 211, 222-23 (1999).
25. Specifically, 35 Ill Adm. Code § 103.204(c)(1) requires the complainant to identified “...[T]he provisions of the Act that Respondents *are alleged to be violating.*” (*emphasis added.*)
26. The language of 35 Ill. Adm. Code § 103.204(c)(1) unambiguously addresses violations which are alleged to be ongoing—hence “*violating*—at the time the complaint is filed.
27. The only interpretation for the General Assembly’s statutory conjugation of the verb “to violate” into “*violating*” is by application of the present tense.
28. The statute is clear that complainants must identify actions Respondent is “...*violating*....” when the complaint is filed.
29. Consistent with the U.S. Supreme Court’s mandate in *Gwaltney* (*supra*), 35 Ill. Adm. Code § 103.204(c)(1) does not authorize private citizen actions alleging wholly past violations, such as alleged here.

30. Unlike citizen's claims, suits by the State of Illinois may pursue past violations. *See, e.g., Modine Mfg. Co v. Pollution Control Bd.*, 193 Ill. App. 3d 643, 648 (2d. Dist. 1990) (fines for wholly pass violation allowed where action was brought by Illinois Environmental Protection Agency and Illinois Attorney General.)
31. This Board implicitly recognized that a private citizen cannot maintain actions for wholly past violations in *Environmental Law and Policy Center v. Freeman United Coal Mining Co. and Springfield Coal Co., LLC*, PCB 2011-002 (July 15, 2010), when the Board held that a failed permit transfer left the named respondent in (then) current violation of NPDES permit requirements. Further, in *Shelton v. Crown*, PCB 96-53 (Oct. 2, 1997), the Board denied a motion to dismiss, finding the Respondent continued to own and operate equipment giving rise to continuing violations. Both cases acknowledged that citizens may pursue complaints for current and ongoing violations, which is the opposite of what Complainant alleges here.
32. The allegations here are limited to purported, past violations in "on or around May 24, 2022". (*See Exhibit A, at ¶ 4.*)
33. There are no allegations of continuing violation or injury.
34. Complainant's Complaint should be dismissed.

C. Motion for Sanctions

35. Respondent, denies any claim that its actions or activities caused or allowed pollution or constitute a violation of Illinois law or regulations.
36. Pursuant to 415 ILCS 5/31(d)(1) and 35 Ill. Adm. Code § 103.212, the Board will not accept a complaint if the Board finds the complaint is "duplicative", meaning the Board lacks the authority to grant relief when Complainant brings a matter that is "substantially

similar to one brought before” it. *See* 35 Ill. Adm. Code § 101.200 for definition of “duplicative”.)

37. The instant complaint is duplicative and sanctions should be granted for failure to comply with 35 Ill. Adm. Code § 101.800 and this Honorable Board’s Order issued on February 16, 2023. (**Naper Commons** Order for case PCB 23-55, attached as **Exhibit B.**)

38. The Board may order sanctions if Complainant unreasonably fails to comply with any provision of the Code “or any order entered by the Board or the hearing officer”. 35 Ill. Adm. Code § 101.800(a).

39. On April 6, 2023, this Honorable Board entered an order dismissing a prior complaint by Christian Pratapas, when he refused to follow Board directive regarding proper service. (Naper Commons Final Order, attached as **Exhibit C.**)

40. In this filing, Complainant lists the same respondent, the same site and the same, vague, conclusory allegations that were dismissed in docket number PCB 23-55. (*See* Complaint.)

41. The current action is duplicative of the prior docket which this Honorable Board dismissed after Complainant’s failure to comply with directives. Per 35 Ill. Adm. Code § 101.202(b), the Board will not accept a complaint for hearing if the complaint is “duplicative” and sanctions should be granted for failure to comply with the Honorable Board’s Order pursuant to 35 Ill. Adm. Code § 101.800.

WHEREFORE, for the foregoing reasons, Respondent, PULTE HOME COMPANY, LLC respectfully move the Illinois Pollution Control Board not to accept the Citizens’ Formal Complaint for hearing on the basis the Complaint is frivolous and duplicative.

II. SAWGRASS BY PULTE HOME COMPANY, LLC

A. Complaint Fails to Plead Sufficient Facts and Cause of Action

42. Respondent denies any claim that its activities caused or allowed pollution or constitute a violation of Illinois law or regulations.
43. Pursuant to 415 ILCS 5/31(d)(1) and 35 Ill. Adm. Code § 103.212, the Board should not accept a complaint for hearing if the complaint is “frivolous”, meaning the Board lacks the authority to grant relief when Complainant failed to state a cause of action.
44. Here, the Complainant, an out-of-state resident, failed to state a cause of action upon which the Board can grant relief as required by 35 Ill. Adm. Code § 101.506, 35 Ill. Adm. Code § 101.100(b), and 735 ILCS § 5/2-615. Complainant’s address is Germantown, Tennessee. (*See* Complaint, Exhibit A, at ¶ 1.)
45. This Board’s procedural rules are silent as to pleading requirements to state a cause of action.
46. When the Board's procedural rules are silent, the Board may look to the Illinois Code of Civil Procedure for guidance. 35 Ill. Adm. Code § 101.100(b).
47. The Illinois Code of Civil Procedure provides for dismissal when allegations fail to plead a cause of action. 735 ILCS 5/2-615; *Pooh-Bah Enterprises, Inc. v. County of Cook*, 232 Ill. 2d 463, 473(2009).
48. Illinois is a fact pleading state. Accordingly, a well-pled complaint must allege all facts necessary to state a legally recognized cause of action. *Adkins v. Sarah Bush Lincoln Health Center*, 129 Ill. 2d 497 (1989). While pleadings are liberally construed, plaintiffs must allege the facts necessary to state a cause of action. *Harris v. Johnson*, 218 Ill. App. 3d 588, 591-92 (2d Dist. 1991).

49. Mere conclusions are insufficient to state a cause of action and are subject to dismissal. *Foxcroft Townhome Owners Ass'n v. Hoffman Rosner Corp.*, 105 Ill. App. 3d 951, 956 (2d Dist. 1982), *aff'd*, 96 Ill. 2d 150, (1983).
50. Here, the Complaint merely recites a list of laws that complainant alleges were violated.
51. Complainant alleges violations of 415 ILCS 5.12(a), 415 ICS 5/12(d), and 35 Ill. Adm. Code § 103.212 without any factual support for these violations (e.g. how each location violated any of these laws). (*See* Complaint, Exhibit A, at ¶ 4.)
52. The complaint fails to make factual allegation that **Sawgrass** Pulte Home Company, LLC violated any laws.
53. Tellingly, Paragraph 4 of the Complaint contains a vague, self-serving narrative of purported discharges; but fails to state the method of purported release or whether the alleged discharges apply specifically to **Sawgrass** or to four other sites listed in the complaint. (*Id.*)
54. Beyond vague and conclusory statements, the Complaint lack necessary facts that **Sawgrass** committed any violation. (*See Id.*)
55. Pointedly, the Complaint merely lists an address for **Sawgrass** and an exhibit with a four grainy pictures, without description of any alleged discharges for that site. (*Id.*)
56. As plead, Respondent must guess at what Complainant is asserting.
57. Complainant's pleadings do not comply with Illinois law.
58. Pursuant to 735 ILCS § 5/2-615, Pulte Homes requests this Honorable Board dismiss the complaint, or in the alternative, order Complainant to amend the pleadings to satisfy Illinois law.
- 59.

B. Wholly Past Violation

60. Respondent recognizes this Honorable Board denied a similar motion contesting the standing of private citizens to separately enforce claims alleging “wholly past violations”. Realizing this Honorable Board’s prior ruling, Respondent must bring this motion, now to preserve the issue for appeal. Respondent means no disrespect for reasserting these legal arguments.
61. Pursuant to 415 ILCS 5/31(d)(1) and 35 Ill. Adm. Code § 101.202(b), the Board will not accept a complaint for hearing if the Board finds the complaint is “frivolous”, meaning the Board lacks the authority to grant the requested relief.
62. The Complaint alleges wholly past, one-time violations, limited to December, 2022 in reference to **Sawgrass** site. (See Complaint ¶ 4.)
63. Paragraph 4 of the Complaint alleges violations of 415 ILCS 5.12(a), 415 ICS 5/12(d), and 35 Ill. Adm. Code § 103.212 on “December 18, 2022 at 1:48 p.m.”. (*Id.*)
64. 415 ILCS 5.12(a) addresses water pollution implementing The Federal Water Pollution Control Act, 33 U.S.C. 1251, *et. seq.*
65. The U.S. Supreme Court directly held there is no standing for citizen suits where the relief addresses wholly past violations. *Gwaltney of Smithfield, Ltd v. Chesapeake Bay Foundation, Inc.*, 484 U.S. 49 (1987).
66. In Illinois, citizens only possess authority to enforce statutes as specifically allowed and authorized by statutes. See *Glisson v. City of Marion*, 188 Ill. 2d 211, 222-23 (1999).
67. Specifically, 35 Ill Adm. Code § 103.204(c)(1) requires the complainant to identified “...[T]he provisions of the Act that Respondents *are alleged to be violating.*” (*emphasis added.*)

68. The language of 35 Ill. Adm. Code § 103.204(c)(1) unambiguously addresses violations which are alleged to be ongoing—hence “*violating*—at the time the complaint is filed.
69. The only interpretation for the General Assembly’s statutory conjugation of the verb “to violate” into “*violating*” is by application of the present tense.
70. The statute is clear that complainants must identify actions Respondent is “...*violating*...” when the complaint is filed.
71. Consistent with the U.S. Supreme Court’s mandate in *Gwaltney* (supra), 35 Ill. Adm. Code § 103.204(c)(1) does not authorize private citizen actions alleging wholly past violations, such as alleged here.
72. Unlike citizen’s claims, suits by the State of Illinois may pursue past violations. *See, e.g., Modine Mfg. Co v. Pollution Control Bd.*, 193 Ill. App. 3d 643, 648 (2d. Dist. 1990) (fines for wholly past violation allowed where action was brought by Illinois Environmental Protection Agency and Illinois Attorney General.)
73. This Board implicitly recognized that a private citizen cannot maintain actions for wholly past violations in *Environmental Law and Policy Center v. Freeman United Coal Mining Co. and Springfield Coal Co., LLC*, PCB 2011-002 (July 15, 2010), when the Board held that a failed permit transfer left the named respondent in (then) current violation of NPDES permit requirements. Further, in *Shelton v. Crown*, PCB 96-53 (Oct. 2, 1997), the Board denied a motion to dismiss, finding the Respondent continued to own and operate equipment giving rise to continuing violations. Both cases acknowledged that citizens may pursue complaints for current and ongoing violations, which is the opposite of what Complainant alleges here.

74. The allegations here are limited to purported past violations in “*December 18, 2022 at 1:48 p.m.*” (See Complaint at ¶ 4.)
75. There are no allegations of continuing violation or injury.
76. Complainant’s Complaint should be dismissed.

C. Motion for Sanctions

77. Respondent denies any claim that its actions or activities caused or allowed pollution or constitute a violation of Illinois law or regulations.
78. Pursuant to 415 ILCS 5/31(d)(1) and 35 Ill. Adm. Code § 103.212, the Board will not accept a complaint if the Board finds the complaint is “duplicative”, meaning the Board lacks the authority to grant relief when Complainant brings a matter that is “substantially similar to one brought before” it. See 35 Ill. Adm. Code § 101.200 for definition of “duplicative”.)
79. The instant complaint is duplicative and sanctions should be granted for failure to comply with 35 Ill. Adm. Code § 101.800 and this Honorable Board’s Order issued on June 1, 2023. (**Sawgrass** Order for case PCB 23-74, attached as **Exhibit D.**)
80. The Board may order sanctions if Complainant unreasonably fails to comply with any provision of the Code “or any order entered by the Board or the hearing officer”. 35 Ill. Adm. Code § 101.800(a).
81. On July 20, 2023, this Honorable Board entered an order dismissing a prior complaint by Christian Pratapas, wherein he refused to follow Board’s directive regarding proper service. (**Sawgrass** Final Order, attached as **Exhibit E.**)

82. In this filing, Complainant lists the same respondent, the same site and the same, vague, conclusory allegations that were dismissed in docket number PCB 23-74. (*See* Exhibit A, at ¶ 1.)

83. The current action is duplicative of the prior docket which this Honorable Board dismissed for Complainant's failure to comply with directives. Per 35 Ill. Adm. Code § 101.202(b), the Board will not accept a complaint for hearing if the complaint is "duplicative" and sanctions should be granted for failure to comply with the Honorable Board's Order pursuant to 35 Ill. Adm. Code § 101.800.

WHEREFORE, for the foregoing reasons, Respondent, PULTE HOME COMPANY, LLC respectfully move the Illinois Pollution Control Board not to accept the Citizens' Formal Complaint for hearing on the basis the Complaint is frivolous and duplicative.

III. WAGNER FARM BY PULTE HOME COMPANY, LLC

A. Complaint Fails to Plead Sufficient Facts and Cause of Action

84. Respondent denies any claim that its activities caused or allowed pollution or constitute a violation of Illinois law or regulations.

85. Pursuant to 415 ILCS 5/31(d)(1) and 35 Ill. Adm. Code § 103.212, the Board should not accept a complaint for hearing if the Board finds the complaint is "frivolous", meaning the Board lacks the authority to grant relief when Complainant failed to state a cause of action.

86. Here, the complainant, an out-of-state resident, fails to state a cause of action upon which the Board can grant relief as required by 35 Ill. Adm. Code § 101.506, 35 Ill. Adm. Code § 101.100(b), and 735 ILCS § 5/2-615. Complainant's address is Germantown, Tennessee. (*See* Complaint, Exhibit A, at ¶ 1.)

87. This Board's procedural rules are silent as to pleading requirements to state a cause of action.
88. When the Board's procedural rules are silent, the Board may look to the Illinois Code of Civil Procedure for guidance. 35 Ill. Adm. Code § 101.100(b).
89. The Illinois Code of Civil Procedure provides for dismissal when allegations fail to plead a cause of action. 735 ILCS 5/2-615; *Pooh-Bah Enterprises, Inc. v. County of Cook*, 232 Ill. 2d 463, 473(2009).
90. Illinois is a fact pleading state. Accordingly, a well-pled complaint must allege all facts necessary to bring plaintiff's claim within the scope of a legally recognized cause of action. *Adkins v. Sarah Bush Lincoln Health Center*, 129 Ill. 2d 497 (1989). While pleadings are liberally construed, plaintiffs must allege the facts necessary to state a cause of action. *Harris v. Johnson*, 218 Ill. App. 3d 588, 591-92 (2d Dist. 1991).
91. Mere conclusions are insufficient to state a cause of action and are subject to dismissal. *Foxcroft Townhome Owners Ass'n v. Hoffman Rosner Corp.*, 105 Ill. App. 3d 951, 956 (2d Dist. 1982), *aff'd*, 96 Ill. 2d 150, (1983).
92. Here, the Complaint merely recites a list of laws that complainant alleges were violated.
93. Complainant alleges violations of 415 ILCS 5.12(a), 415 ICS 5/12(d), and 35 Ill. Adm. Code § 103.212 without any factual support for these violations (e.g. how each location violated any of these laws). (*See* Complaint, Exhibit A, at ¶ 4.)
94. The complaint fails to make factual allegation that **Wagner Farm** Pulte Home Company, LLC violated any laws.
95. Tellingly, Paragraph 4 of the Complaint contains a vague, self-serving narrative of discharges; but fails to state the method of purported release or whether the alleged

discharges apply specifically to **Wagner Farm** or to four other sites listed in the complaint. (*Id.*)

96. Beyond vague and conclusory statements, the Complaint lack necessary facts that **Wagner Farm** committed any violation. (*See Id.*)
97. Pointedly, the Complaint merely lists an address for **Wagner Farm** and an exhibit with a two grainy pictures, without description of any alleged discharges for that site. (*Id.*)
98. As plead, Respondent must guess at what Complainant is asserting.
99. Complainant's pleadings do not comply with Illinois law.
100. Pursuant to 735 ILCS § 5/2-615, Pulte Homes requests this Honorable Board dismiss the complaint, or in the alternative, order Complainant to amend the pleadings to satisfy Illinois law.

B. Wholly Past Violation

101. Respondent recognizes this Honorable Board denied a similar motion contesting the standing of private citizens to separately enforce claims alleging "wholly past violations". Realizing this Honorable Board's prior ruling, Respondent must bring this motion, now to preserve the issue for appeal. Respondent means no disrespect for reasserting these legal arguments.
102. Pursuant to 415 ILCS 5/31(d)(1) and 35 Ill. Adm. Code § 101.202(b), the Board will not accept a complaint for hearing if the Board finds the complaint is "frivolous", meaning the Board lacks the authority to grant the requested relief.
103. The Complaint alleges wholly past, one-time violations, limited to May 21, 2022 in reference to **Wagner Farm** site. (*See Exhibit A, ¶ 4.*)

104. Paragraph 4 of the Complaint alleges violations of 415 ILCS 5.12(a), 415 ICS 5/12(d), and 35 Ill. Adm. Code § 103.212 “*on or around May 21, 2022*”. (See Exhibit A at ¶ 4.)
105. 415 ILCS 5.12(a) addresses water pollution implementing The Federal Water Pollution Control Act, 33 U.S.C. 1251, *et. seq.*
106. The U.S. Supreme Court directly held there is no standing for citizen suits where the relief addresses wholly past violations. *Gwaltney of Smithfield, Ltd v. Chesapeake Bay Foundation, Inc.*, 484 U.S. 49 (1987).
107. In Illinois, citizens only possess authority to enforce statutes as specifically allowed and authorized by statutes. *See Glisson v. City of Marion*, 188 Ill. 2d 211, 222-23 (1999).
108. Specifically, 35 Ill Adm. Code § 103.204(c)(1) requires the complainant to identified “...[T]he provisions of the Act that Respondents *are alleged to be violating*.” (*emphasis added.*)
109. The language of 35 Ill. Adm. Code § 103.204(c)(1) unambiguously addresses violations which are alleged to be ongoing—hence “*violating*—at the time the complaint is filed.
110. The only interpretation for the General Assembly’s statutory conjugation of the verb “to violate” into “*violating*” is by application of the present tense.
111. The statute is clear that complainants must identify actions Respondent is “...*violating*...” when the complaint is filed.
112. Consistent with the U.S. Supreme Court’s mandate in *Gwaltney* (supra), 35 Ill. Adm. Code § 103.204(c)(1) does not authorize private citizen actions alleging wholly past violations, such as alleged here.
113. Unlike citizen’s claims, suits by the State of Illinois may pursue past violations. *See, e.g., Modine Mfg. Co v. Pollution Control Bd.*, 193 Ill. App. 3d 643, 648 (2d. Dist. 1990)

(fines for wholly pass violation allowed where action was brought by Illinois Environmental Protection Agency and Illinois Attorney General.)

114. This Board implicitly recognized that a private citizen cannot maintain actions for wholly past violations in *Environmental Law and Policy Center v. Freeman United Coal Mining Co. and Springfield Coal Co., LLC*, PCB 2011-002 (July 15, 2010), when the Board held that a failed permit transfer left the named respondent in (then) current violation of NPDES permit requirements. Further, in *Shelton v. Crown*, PCB 96-53 (Oct. 2, 1997), the Board denied a motion to dismiss, finding the Respondent continued to own and operate equipment giving rise to continuing violations. Both cases acknowledged that citizens may pursue complaints for current and ongoing violations, which is the opposite of what Complainant alleges here.
115. The allegations here are limited to purported past violations “on or around May 21, 2022”. (See Exhibit A, ¶ 4.)
116. There are no allegations of continuing violation or injury.
117. Complainant’s Complaint should be dismissed.

C. Motion for Sanctions

118. Respondent denies any claim that its actions or activities caused or allowed pollution or constitute a violation of Illinois law or regulations.
119. Pursuant to 415 ILCS 5/31(d)(1) and 35 Ill. Adm. Code § 103.212, the Board will not accept a complaint if the Board finds the complaint is “duplicative”, meaning the Board lacks the authority to grant relief when Complainant brings a matter that is “substantially similar to one brought before” it. See 35 Ill. Adm. Code § 101.200 for definition of “duplicative”.)

120. The instant complaint is duplicative and sanctions should be granted for failure to comply with 35 Ill. Adm. Code § 101.800 and this Honorable Board's Order issued on December 15, 2022. (**Wagner Farm** Order for case PCB 23-54, attached as **Exhibit F.**)
121. The Board may order sanctions if Complainant unreasonably fails to comply with any provision of the Code "or any order entered by the Board or the hearing officer". 35 Ill. Adm. Code § 101.800(a).
122. On June 1, 2023, this Honorable Board entered an order dismissing a prior complaint by Christian Pratapas, wherein he refused to follow Board directive regarding proper service. (**Wagner Farm** Final Order, attached as **Exhibit G.**)
123. In this filing, Complainant lists the same respondent, the same site and the same, vague, conclusory allegations that were dismissed in docket number PCB 23-54. (*See* Complaint.)
124. The current action is duplicative of the prior docket which this Honorable Board dismissed for Complainant's failure to comply with directives. Per 35 Ill. Adm. Code § 101.202(b), the Board will not accept a complaint for hearing if the complaint is "duplicative" and sanctions should be granted for failure to comply with the Honorable Board's Order pursuant to 35 Ill. Adm. Code § 101.800.

WHEREFORE, for the foregoing reasons, Respondent, PULTE HOME COMPANY, LLC respectfully move the Illinois Pollution Control Board not to accept the Citizens' Formal Complaint for hearing on the basis the Complaint is frivolous and duplicative.

IV. TRILLIUM FARM BY PULTE HOME COMPANY, LLC

A. Complaint Fails to Plead Sufficient Facts and Cause of Action

125. Respondent denies any claim that its activities caused or allowed pollution or constitute a violation of Illinois law or regulations.
126. Pursuant to 415 ILCS 5/31(d)(1) and 35 Ill. Adm. Code § 103.212, the Board should not accept a complaint for hearing if the Board finds the complaint is “frivolous”, meaning the Board lacks the authority to grant relief when Complainant failed to state a cause of action.
127. Here, the complainant, an out-of-state resident, fails to state a cause of action upon which the Board can grant relief as required by 35 Ill. Adm. Code § 101.506, 35 Ill. Adm. Code § 101.100(b), and 735 ILCS § 5/2-615. Complainant’s address is Germantown, Tennessee. (*See* Complaint, Exhibit A, at ¶ 1.)
128. This Board’s procedural rules are silent as to pleading requirements to state a cause of action.
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131. Illinois is a fact pleading state. Accordingly, a well-pled complaint must allege all facts necessary to bring plaintiff's claim within the scope of a legally recognized cause of action. *Adkins v. Sarah Bush Lincoln Health Center*, 129 Ill. 2d 497 (1989). While

pleadings are liberally construed, plaintiffs must allege the facts necessary to state a cause of action. *Harris v. Johnson*, 218 Ill. App. 3d 588, 591-92 (2d Dist. 1991).

132. Mere conclusions are insufficient to state a cause of action and are subject to dismissal. *Foxcroft Townhome Owners Ass'n v. Hoffman Rosner Corp.*, 105 Ill. App. 3d 951, 956 (2d Dist. 1982), *aff'd*, 96 Ill. 2d 150, (1983).
133. Here, the Complaint merely recites a list of laws that complainant alleges were violated.
134. Complainant alleges violations of 415 ILCS 5.12(a), 415 ICS 5/12(d), and 35 Ill. Adm. Code § 103.212 without any factual support for these violations (e.g. how each location violated any of these laws). (*See* Complaint, Exhibit A, at ¶ 4.)
135. The complaint fails to make factual allegation that **Trillium Farm** Pulte Home Company, LLC violated any laws.
136. Tellingly, Paragraph 4 of the Complaint contains a vague, self-serving narrative of discharges; but fails to state the method of purported release or whether the alleged discharges apply specifically to **Trillium Farm** or to four other sites listed in the complaint. (*Id.*)
137. Beyond vague and conclusory statements, the Complaint lack necessary facts that **Trillium Farm** committed any violation. *See Id.*
138. Pointedly, the Complaint merely lists an address for **Trillium Farm** and an exhibit with a two grainy pictures, without description of any alleged discharges for that site. (*Id.*)
139. As plead, Respondent must guess at what Complainant is asserting.
140. Complainant's pleadings do not comply with Illinois law.
141. Pursuant to 735 ILCS § 5/2-615, Pulte Homes requests this Honorable Board dismiss the complaint, or in the alternative, order Complainant to amend the pleadings to satisfy

Illinois law.

B. Wholly Past Violation

142. Respondent recognizes this Honorable Board denied a similar motion contesting the standing of private citizens to separately enforce claims alleging “wholly past violations”. Realizing this Honorable Board’s prior ruling, Respondent must bring this motion, now to preserve the issue for appeal. Respondent means no disrespect for reasserting these legal arguments.
143. Pursuant to 415 ILCS 5/31(d)(1) and 35 Ill. Adm. Code § 101.202(b), the Board will not accept a complaint for hearing if the Board finds the complaint is “frivolous”, meaning the Board lacks the authority to grant the requested relief.
144. The Complaint alleges wholly past, one-time violations, limited to November 24, 25 and 27 of 2023 in reference to **Trillium Farm** site. (See Exhibit A at ¶ 4.)
145. Paragraph 4 of the Complaint alleges violations of 415 ILCS 5.12(a), 415 ICS 5/12(d), and 35 Ill. Adm. Code § 103.212 on “*Thanksgiving 11/24/2022 at 3 in the afternoon, 11/25/2022 & 11/27/2023*”. (Exhibit A at ¶ 4.)
146. 415 ILCS 5.12(a) addresses water pollution implementing The Federal Water Pollution Control Act, 33 U.S.C. 1251, *et. seq.*
147. The U.S. Supreme Court directly held there is no standing for citizen suits where the relief addresses wholly past violations. *Gwaltney of Smithfield, Ltd v. Chesapeake Bay Foundation, Inc.*, 484 U.S. 49 (1987).
148. In Illinois, citizens only possess authority to enforce statutes as specifically allowed and authorized by statutes. See *Glisson v. City of Marion*, 188 Ill. 2d 211, 222-23 (1999).

149. Specifically, 35 Ill Adm. Code § 103.204(c)(1) requires the complainant to identified “...[T]he provisions of the Act that Respondents *are alleged to be violating.*” (*emphasis added.*)
150. The language of 35 Ill. Adm. Code § 103.204(c)(1) unambiguously addresses violations which are alleged to be ongoing—hence “*violating*—at the time the complaint is filed.
151. The only interpretation for the General Assembly’s statutory conjugation of the verb “to violate” into “*violating*” is by application of the present tense.
152. The statute is clear that complainants must identify actions Respondent is “...*violating*....” when the complaint is filed.
153. Consistent with the U.S. Supreme Court’s mandate in *Gwaltney* (*supra*), 35 Ill. Adm. Code § 103.204(c)(1) does not authorize private citizen actions alleging wholly past violations, such as alleged here.
154. Unlike citizen’s claims, suits by the State of Illinois may pursue past violations. *See, e.g., Modine Mfg. Co v. Pollution Control Bd.*, 193 Ill. App. 3d 643, 648 (2d. Dist. 1990) (fines for wholly pass violation allowed where action was brought by Illinois Environmental Protection Agency and Illinois Attorney General.)
155. This Board implicitly recognized that a private citizen cannot maintain actions for wholly past violations in *Environmental Law and Policy Center v. Freeman United Coal Mining Co. and Springfield Coal Co., LLC*, PCB 2011-002 (July 15, 2010), when the Board held that a failed permit transfer left the named respondent in (then) current violation of NPDES permit requirements. Further, in *Shelton v. Crown*, PCB 96-53 (Oct. 2, 1997), the Board denied a motion to dismiss, finding the Respondent continued to own and operate equipment giving rise to continuing violations. Both cases acknowledged that

citizens may pursue complaints for current and ongoing violations, which is the opposite of what Complainant alleges here.

156. The allegations here are limited to purported, past violations on “Thanksgiving 11/24/2022 at 3 in the afternoon, 11/25/2022 & 11/27/2023”. (Exhibit A at ¶ 4.)
157. There are no allegations of continuing violation or injury.
158. Complainant’s Complaint should be dismissed.

C. Motion for Sanctions

159. Respondent denies any claim that its actions or activities caused or allowed pollution or constitute a violation of Illinois law or regulations.
160. Pursuant to 415 ILCS 5/31(d)(1) and 35 Ill. Adm. Code § 103.212, the Board will not accept a complaint if the Board finds the complaint is “duplicative”, meaning the Board lacks the authority to grant relief when Complainant brings a matter that is “substantially similar to one brought before” it. See 35 Ill. Adm. Code § 101.200 for definition of “duplicative”.)
161. The instant complaint is duplicative and sanctions should be granted for failure to comply with 35 Ill. Adm. Code § 101.800 and this Honorable Board’s Order issued on May 18, 2023. (**Trillium Farm** Order for case PCB 23-63, attached as **Exhibit H**.)
162. The Board may order sanctions if Complainant unreasonably fails to comply with any provision of the Code “or any order entered by the Board or the hearing officer”. 35 Ill. Adm. Code § 101.800(a).
163. On July 6, 2023, this Honorable Board entered an order dismissing a prior complaint by Christian Pratapas, when he refused to follow Board directive regarding proper service. (**Trillium Farm** Final Order, attached as **Exhibit I**.)

164. In this filing, Complainant lists the same respondent, the same site and the same, vague, conclusory allegations as that were dismissed in docket number PCB 23-63. (*See* Exhibit A.)

165. The current action is duplicative of the prior docket which this Honorable Board dismissed for Complainant's failure to comply with directives. Per 35 Ill. Adm. Code § 101.202(b), the Board will not accept a complaint for hearing if the complaint is "duplicative" and sanctions should be granted for failure to comply with the Honorable Board's Order pursuant to 35 Ill. Adm. Code § 101.800.

WHEREFORE, for the foregoing reasons, Respondent, PULTE HOME COMPANY, LLC respectfully move the Illinois Pollution Control Board not to accept the Citizens' Formal Complaint for hearing on the basis the Complaint is frivolous and duplicative.

V. WINDING CREEK BY PULTE HOME COMPANY, LLC

A. Complaint Fails to Plead Sufficient Facts and Cause of Action

166. Respondent denies any claim that its activities caused or allowed pollution or constitute a violation of Illinois law or regulations.

167. Pursuant to 415 ILCS 5/31(d)(1) and 35 Ill. Adm. Code § 103.212, the Board should not accept a complaint for hearing if the Board finds the complaint is "frivolous", meaning the Board lacks the authority to grant relief when Complainant failed to state a cause of action.

168. Here, the complainant, an out-of-state resident fails to state a cause of action upon which the Board can grant relief as required by 35 Ill. Adm. Code § 101.506, 35 Ill. Adm. Code § 101.100(b), and 735 ILCS § 5/2-615. Complainant's address is Germantown, Tennessee. (*See* Complaint, Exhibit A, at ¶ 1.)

169. This Board's procedural rules are silent as to pleading requirements to state a cause of action.
170. When the Board's procedural rules are silent, the Board may look to the Illinois Code of Civil Procedure for guidance. 35 Ill. Adm. Code § 101.100(b).
171. The Illinois Code of Civil Procedure provides for dismissal when allegations fail to plead a cause of action. 735 ILCS 5/2-615; *Pooh-Bah Enterprises, Inc. v. County of Cook*, 232 Ill. 2d 463, 473(2009).
172. Illinois is a fact pleading state. Accordingly, a well-pled complaint must allege all facts necessary to bring plaintiff's claim within the scope of a legally recognized cause of action. *Adkins v. Sarah Bush Lincoln Health Center*, 129 Ill. 2d 497 (1989). While pleadings are liberally construed, plaintiffs must allege the facts necessary to state a cause of action. *Harris v. Johnson*, 218 Ill. App. 3d 588, 591-92 (2d Dist. 1991).
173. Mere conclusions are insufficient to state a cause of action and are subject to dismissal. *Foxcroft Townhome Owners Ass'n v. Hoffman Rosner Corp.*, 105 Ill. App. 3d 951, 956 (2d Dist. 1982), *aff'd*, 96 Ill. 2d 150, (1983).
174. Here, the Complaint merely recites a list of laws that complainant alleges were violated.
175. Complainant alleges violations of 415 ILCS 5.12(a), 415 ICS 5/12(d), and 35 Ill. Adm. Code § 103.212 without any factual support for these violations (e.g. how each location violated any of these laws). (*See* Complaint, attached as Exhibit A, at ¶ 4.)
176. The complaint fails to make factual allegation that **Winding Creek** Pulte Home Company, LLC violated any laws.
177. Tellingly, Paragraph 4 of the Complaint contains a vague, self-serving narrative of discharges; but fails to state the method of purported release or whether the alleged

discharges apply specifically to **Winding Creek** or to four other sites listed in the complaint. (*Id.*)

178. Beyond vague and conclusory statements, the Complaint lack necessary facts that **Winding Creek** committed any violation. (*See Id.*)
179. Pointedly, the Complaint merely lists an address for **Winding Creek** and an exhibit with a one grainy pictures, without description of any alleged discharges for that site. (*Id.*)
180. As plead, Respondent must guess at what Complainant is asserting.
181. Complainant's pleadings do not comply with Illinois law.
182. Pursuant to 735 ILCS § 5/2-615, Pulte Homes requests this Honorable Board dismiss the complaint, or in the alternative, order Complainant to amend the pleadings to satisfy Illinois law.

B. Wholly Past Violation

183. Respondent recognizes this Honorable Board denied a similar motion contesting the standing of private citizens to separately enforce claims alleging "wholly past violations". Realizing this Honorable Board's prior ruling, Respondent must bring this motion, now to preserve the issue for appeal. Respondent means no disrespect for reasserting these legal arguments.
184. Pursuant to 415 ILCS 5/31(d)(1) and 35 Ill. Adm. Code § 101.202(b), the Board will not accept a complaint for hearing if the Board finds the complaint is "frivolous", meaning the Board lacks the authority to grant the requested relief.
185. The Complaint alleges wholly past, one-time violations, limited to December 2022 in reference to **Winding Creek** site. (*See Exhibit A at ¶ 4.*)

186. Paragraph 4 of the Complaint alleges violations of 415 ILCS 5/12(a), 415 ICS 5/12(d), and 35 Ill. Adm. Code § 103.212 on “12/13/2022 ...at 11:13 PM following rainfall”. (Exhibit A at ¶ 4.)
187. 415 ILCS 5.12(a) addresses water pollution implementing The Federal Water Pollution Control Act, 33 U.S.C. 1251, *et. seq.*
188. The U.S. Supreme Court directly held there is no standing for citizen suits where the relief addresses wholly past violations. *Gwaltney of Smithfield, Ltd v. Chesapeake Bay Foundation, Inc.*, 484 U.S. 49 (1987).
189. In Illinois, citizens only possess authority to enforce statutes as specifically allowed and authorized by statutes. *See Glisson v. City of Marion*, 188 Ill. 2d 211, 222-23 (1999).
190. Specifically, 35 Ill Adm. Code § 103.204(c)(1) requires the complainant to identified “...[T]he provisions of the Act that Respondents *are alleged to be violating.*” (*emphasis added.*)
191. The language of 35 Ill. Adm. Code § 103.204(c)(1) unambiguously addresses violations which are alleged to be ongoing—hence “*violating*—at the time the complaint is filed.
192. The only interpretation for the General Assembly’s statutory conjugation of the verb “to violate” into “*violating*” is by application of the present tense.
193. The statute is clear that complainants must identify actions Respondent is “...*violating*....” when the complaint is filed.
194. Consistent with the U.S. Supreme Court’s mandate in *Gwaltney* (supra), 35 Ill. Adm. Code § 103.204(c)(1) does not authorize private citizen actions alleging wholly past violations, such as alleged here.

195. Unlike citizen's claims, suits by the State of Illinois may pursue past violations. *See, e.g., Modine Mfg. Co v. Pollution Control Bd.*, 193 Ill. App. 3d 643, 648 (2d. Dist. 1990) (fines for wholly pass violation allowed where action was brought by Illinois Environmental Protection Agency and Illinois Attorney General.)
196. This Board implicitly recognized that a private citizen cannot maintain actions for wholly past violations in *Environmental Law and Policy Center v. Freeman United Coal Mining Co. and Springfield Coal Co., LLC*, PCB 2011-002 (July 15, 2010), when the Board held that a failed permit transfer left the named respondent in (then) current violation of NPDES permit requirements. Further, in *Shelton v. Crown*, PCB 96-53 (Oct. 2, 1997), the Board denied a motion to dismiss, finding the Respondent continued to own and operate equipment giving rise to continuing violations. Both cases acknowledged that citizens may pursue complaints for current and ongoing violations, which is the opposite of what Complainant alleges here.
197. The allegations here are limited to purported past violations on "12/13/2022 at 11:13 PM following a rainfall." (Exhibit A at ¶ 4.)
198. There are no allegations of continuing violation or injury.
199. Complainant's Complaint should be dismissed.

C. Motion for Sanctions

200. Respondent denies any claim that its actions or activities caused or allowed pollution or constitute a violation of Illinois law or regulations.
201. Pursuant to 415 ILCS 5/31(d)(1) and 35 Ill. Adm. Code § 103.212, the Board will not accept a complaint if the Board finds the complaint is "duplicative", meaning the Board lacks the authority to grant relief when Complainant brings a matter that is "substantially

similar to one brought before” it. *See* 35 Ill. Adm. Code § 101.200 for definition of “duplicative”.)

202. The instant complainant is duplicative and sanction should be granted for failure to comply with 35 Ill. Adm. Code § 101.800 and this Honorable Board’s Order of June 15, 2023. (**Winding Creek** Order for case PCB 23-79, attached as **Exhibit J**.)

203. The Board may order sanctions if Complainant unreasonably fails to comply with any provision of the Code “or any order entered by the Board or the hearing officer”. 35 Ill. Adm. Code § 101.800(a).

204. On August 3, 2023, this Honorable Board entered an order dismissing a prior complaint by Christian Pratapas, when he refused to follow Board directive regarding proper service. (**Winding Creek** Final Order, attached as **Exhibit K**.)

205. In this filing, Complainant lists the same respondent, the same site and the same, vague, conclusory allegations that were dismissed in docket number PCB 23-79. (*See* Complaint.)

206. The current action is duplicative of the prior docket which this Honorable Board dismissed for Complainant’s failure to comply with directives. Per 35 Ill. Adm. Code § 101.202(b), the Board will not accept a complaint for hearing if the complaint is “duplicative” and sanctions should be granted for failure to comply with the Honorable Board’s Order pursuant to 35 Ill. Adm. Code § 101.800.

WHEREFORE, for the foregoing reasons, Respondent, PULTE HOME COMPANY, LLC respectfully move the Illinois Pollution Control Board not to accept the Citizens’ Formal Complaint for hearing on the basis the Complaint is frivolous and duplicative.

SWANSON, MARTIN & BELL, LLP

/s/ Michael J. Maher/Jay Koeler
Attorneys for Respondent,
PULTE HOME COMPANY, LLC

Michael J. Maher (mmaher@smbtrials.com)
J. A. Koehler. (jkoehler@smbtrials.com)
Robert R. Harmening III (rharmening@smbtrials.com)
SWANSON, MARTIN & BELL, LLP
330 N. Wabash Ave., Suite 3300
Chicago, IL 60611
Phone: (312) 321-9100/Fax: (312) 321-0990

Exhibit A



Notice of Service of Process

Transmittal Number: 27417681
Date Processed: 08/07/2023

Primary Contact: Shani Pipkin
Pulte Group
27401 Los Altos
Ste 400
Mission Viejo, CA 92691-8550

Electronic copy provided to: Kim Roser
Jane Celovsky

Entity: Pulte Home Company, LLC
Entity ID Number 3655767

Entity Served: Pulte Home Company, LLC

Title of Action: Paul Christian Pratapas vs. Pulte Home Company, LLC

Matter Name/ID: Paul Christian Pratapas vs. Pulte Home Company, LLC (14433709)

Document(s) Type: Complaint

Nature of Action: Property

Court/Agency: Pollution Control Board, IL

Case/Reference No: PCB 2024-009

Jurisdiction Served: Illinois

Date Served on CSC: 08/04/2023

Answer or Appearance Due: 30 Days

Originally Served On: CSC

How Served: Certified Mail

Sender Information: Paul Christian Pratapas
630-210-1637

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | sop@cscglobal.com

FORMAL COMPLAINT

Before the Illinois Pollution Control Board

Paul Christian Pratapas
An American

Complainant,

v.

PCB 20

[For Board use only]

Pulte Home Company, LLC

Respondent

1. Your Contact Information

Name: Paul Christian Pratapas
Street Address: 1779 Kirby Parkway, Suite 1-92
Germantown, TN 38135
County: Shelby County
Phone Number: 630.210.1637

2. Name and Address of the Respondent

Name: Pulte Home Company, LLC
Street Address: 3350 Peachtree Rd. NE, STE 1500
Atlanta, GA 30326
County: Fulton
Phone Number: (847) 230-5400

3. Describe the type of business or activity that you allege is causing or allowing pollution.

Pulte Homes is building new neighborhoods of residential housing. There are single family homes and neighborhoods designated for senior citizens, among other types as described in the SWPPP for each respective site. Pulte failed to post required regulatory signage and also has refused access to all SWPPP Books for permitted sites.

Individually Permitted Sites in this complaint: Sawgrass, Winding Creek, Trillium Farm, Naper Commons, Wagner Farms

4. List specific sections that you allege have been or are being violated.

1. 415 ILCS 5.12(a)
2. 415 ILCS 5/12 (d)
3. IL Admin Code Title 35, 304.141(b)

Describe the type of pollution that you allege

Water:

Toxic concrete washout water and slurry prohibited from making contact with soil and migrating to surface waters or into the ground water not managed. Photographs show concrete trucks have been cleaning out at the end of driveways. Sediment and sediment laden water freely allowed to enter the street and inlets. Inlet filter baskets filled with water and overflowing indicating they are clogged with the fine sediment and require maintenance. Workers photographed on a dirt covered road cleaning their boots off on the curb next to an inlet surrounded with sediment laden water. There appeared to be a total unawareness of any issues at hand. Cut out curbs left without BMPs. Pollutants are not controlled.

Extent, Severity and Duration: A review of the SWPPP Book would be required to completely answer this question. Pulte has refused access.

Sawgrass Photographed: December 18, 2022 at 1:48pm on a Sunday afternoon.

Location of Pollution: 16646 S Sunmeadow Dr., Lockport DR, IL 60441

Wagner Farm Photographed: On or around May 21, 2022. Photographed on a weekend immediately following the rain when nobody was working. Site is how it was left for the weekend.

Location of Pollution: 3723 Quick Fire Dr, Naperville, IL 60564

Trillium Farm Photographed: Thanksgiving 11/24/2022 at 3 in the afternoon. 11/25/2022 & 11/27/2022

Location of Pollution: 28W785 Trillium Dr., Winfield, IL 60190

Winding Creek Photographed: 12/13/2022 at 11:13 PM following rainfall.

Location of Pollution: 242 Olmstead Ct., Batavia, IL 60510

Naper Commons Photographed: On or around May 24, 2022

Location of Pollution: 2308 Weatherbee Ln., Naperville, IL 60563

The impacts on wildlife, plants and the environment cannot be appropriately assessed without viewing the SWPPP Book, but the pollution poses immediate risk to wildlife and residents of partially completed developments, especially in the senior community.

Describe the relief that you seek from the Board.

1. Find that Respondent has violated their permits
2. Assess a civil penalty of Fifty Thousand Dollars (\$ 50,000.00) against Respondent for each violation of the Act and Regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of each violation
3. Examination of SWPPP inspection reports and contractor certifications by The Board
4. An order stating SWPPP plan(s) for phasing, curbside protection, concrete washout areas must be implemented as presented and approved unless documented otherwise with standards being found in the Illinois Urban Manual.
5. An order stating pollutants must be controlled and minimized from entering the street and/or stormwater system and required regulatory signage posted
6. An order stating concrete washout must not be discharged into the environment
7. A Board order requiring resonant to provide access to the SWPPP Books for the permitted sites referred to in this complaint
8. Any other relief the board finds appropriate

Identify any identical or substantially similar case you know of brought before the Board or in another forum against this respondent for the same alleged pollution

Previous cases dismissed without prejudice do to procedural error during service consolidated into this complaint. Errors were due in part to failures to comply with permit guidelines related to citizen enforcement actions.

PCB 2023-074

PCB 2023-079

PCB 2023-063

PCB 2023-054

PCB 2023-055

10. Paul Christian Pratas

Complainant's Signature

CERTIFICATION

I, PAUL C PRATA PAS, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

Paul Christian Pratas

Complainant's Signature

Subscribed to and sworn before me

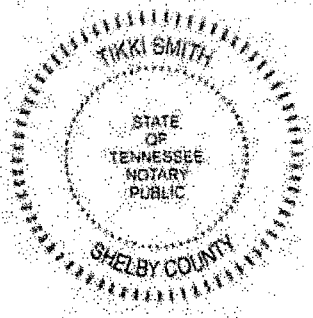
this 26th day

of July, 2023

Tikki Smith

Notary Public

My Commission Expires: 06/28/2027

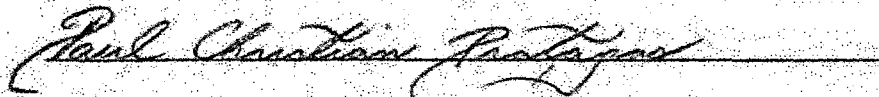


NOTICE OF FILING

Note to the Complainant: This Notice of Filing must accompany the Formal Complaint and the Documentation of Service. Once you have completed the Notice of Filing, the Formal Complaint, and the Documentation of Service, you must file these three documents with the Board's Clerk and serve a copy of each document on each respondent.

Please take notice that today I, Paul Christian Pratapas, filed with the Clerk of the Illinois Pollution Control Board (Board) a Formal Complaint, a copy of which is served on you along with this Notice of Filing. You may be required to attend a hearing on a date set by the Board.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney. 35 Ill. Adm. Code 103.204(f).



Complainant's Signature

Street: 1779 Kirby Parkway, Suite 1-92

City/State/Zip: Germantown, TN 38135

Date: 7/26/23

INFORMATION FOR RESPONDENT RECEIVING FORMAL COMPLAINT

The following information has been prepared by the Board for general informational purposes only and does not constitute legal advice or substitute for the provisions of any statute, rule, or regulation. Information about the Formal Complaint process before the Board is found in the Environmental Protection Act (Act) (415 ILCS 5) and the Board's procedural rules (35 Ill. Adm. Code 101, 103). These can be accessed on the Board's website (www.ipcb.state.il.us). The following is a summary of some of the most important points in the Act and the Board's procedural rules.

Board Accepting Formal Complaint for Hearing: Motions

The Board will not accept this Formal Complaint for hearing if the Board finds that it is either "duplicative" or "frivolous" within the meaning of Section 31(d)(1) of the Act (415 ILCS 5/31(d)(1)) and Section 101.202 of the Board's procedural rules (35 Ill. Adm. Code 101.202 (definitions of the terms "duplicative" and "frivolous")). "Duplicative" means the complaint is identical or substantially similar to a case brought before the Board or another forum. See 35 Ill. Adm. Code 103.212(a) and item 10 of the Formal Complaint.

"Frivolous" means that the Formal Complaint seeks relief that the Board does not have the authority to grant or fails to state a cause of action upon which the Board can grant relief. For example, the Board has the authority to order a respondent to stop polluting and pay a civil penalty, to implement pollution abatement measures, or to perform a cleanup or reimburse cleanup costs. The Board does

not have the authority, however, to award attorney fees to a citizen complainant. See 35 Ill. Adm. Code 103.212(a) and items 5 through 9 of the Formal Complaint.

If you believe that this Formal Complaint is duplicative or frivolous, you may file a motion with the Board, within 30 days after the date you received the complaint, requesting that the Board not accept the complaint for hearing. The motion must state the facts supporting your belief that the complaint is duplicative or frivolous. Memoranda, affidavits, and any other relevant documents may accompany the motion. See 35 Ill. Adm. Code 101.504, 103.212(b). If you need more than 30 days to file a motion alleging that the complaint is duplicative or frivolous, you must file a motion for an extension of time within 30 days after you received the complaint. A motion for an extension of time must state why you need more time and the amount of additional time you need. Timely filing a motion alleging that the Formal Complaint is duplicative or frivolous will stay the 60-day period for filing an Answer to the complaint. See 35 Ill. Adm. Code 103.204(e), 103.212(b); see also 35 Ill. Adm. Code 101.506 (generally, all motions to strike, dismiss, or challenge the sufficiency of any pleading must be filed within 30 days after service of the challenged document).

The party making a motion must "file" the motion with the Board's Clerk and "serve" a copy of the motion on each of the other parties to the proceeding. The Board's filing and service requirements are set forth in its procedural rules (35 Ill. Adm. Code 101.300, 101.302, 101.304), which are located on the Board's website (pcb.illinois.gov).

If you do not file a motion with the Board within 30 days after the date on which you received the Formal Complaint, the Board may find that the complaint is not duplicative or frivolous and accept the case for hearing without any input from you. The Board will then assign a hearing officer who will contact you to schedule times for holding telephone status conferences and a hearing. See 35 Ill. Adm. Code 103.212(a).

Answer to Complaint

You have the right to file an Answer to this Formal Complaint within 60 days after you receive the complaint. If you timely file a motion alleging that the complaint is duplicative or frivolous, or a motion to strike, dismiss, or challenge the sufficiency of the complaint, then you may file an Answer within 60 days after the Board rules on your motion. See 35 Ill. Adm. Code 101.506, 103.204(d), (e), 103.212(b).

Failing to file an Answer to the Formal Complaint within 60 days after you were served with the complaint may have severe consequences. Failure to timely file an Answer will mean that all allegations in the Formal Complaint will be taken as if you admitted them for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office, or an attorney. See 35 Ill. Adm. Code 103.204(f).

Necessity of an Attorney

Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. In addition, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, even if an individual is not an attorney, he or she is allowed to represent (1) himself or herself as an individual or (2) his or her unincorporated sole proprietorship. See 35 Ill. Adm. Code 101.400(a). Such an individual may nevertheless wish to have an attorney prepare an Answer and any motions or briefs and present a defense at hearing.

Costs

In defending against this Formal Complaint, you are responsible for your attorney fees, duplicating charges, travel expenses, witness fees, and any other costs that you or your attorney may incur. The Board requires no filing fee to file with the Board your Answer or any other document in the enforcement proceeding. The Board will pay its own hearing costs (e.g., hearing room rental, court reporting fees, hearing officer expenses).

If you have any questions, please contact the Clerk's Office at (312) 814-3461.

Note to the Complainant: This Documentation of Service must accompany the Formal Complaint and the Notice of Filing. Once you have completed the Documentation of Service, the Formal Complaint, and the Notice of Filing, you must file these three documents with the Board's Clerk *and* serve a copy of each document on each respondent.

This form for the Documentation of Service is designed for use by a non-attorney and must be notarized, *i.e.*, it is an "affidavit" of service. An attorney may modify the form for use as a "certificate" of service, which is not required to be notarized.

Affidavit of Service

I, Paul Christian Pratapas, certify that I caused the foregoing FORMAL COMPLAINT to be served all parties of record, as shown below:

Pulte Home Company, LLC
C/O Todd N. Sheldon
ILLINOIS CORPORATION SERVICE COMPANY
801 ADLAI STEVENSON DRIVE
SPRINGFIELD, IL 62703-4261

by causing a copy of same to be sent via USPS Certified Mail to the mailing address reflected above, ^{by PP} ~~on~~ ^{7/26/23} the 29TH day of JULY, 2023 at 1:00 PM. However, the Proof of Service is not available to me at this time, but will be filed within seven days of receipt.

RESPONDENT'S ADDRESS:

Name: Pulte Home Company, LLC
Street: 3350 PEACHTREE RD. NE, STE 1500
City/State/Zip: ATLANTA, GA 30326

Paul Christian Pratapas

Complainant's Signature

Street: 1779 Kirby Parkway, Suite 1-92
City, State, Zip Code: Germantown, TN 38135
Date: 7/26/23

Subscribed and sworn before me

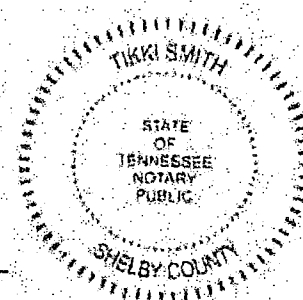
this 26th day

of July, 2023

Tikki Smith

Notary Public

My Commission Expires: 06/28/2027



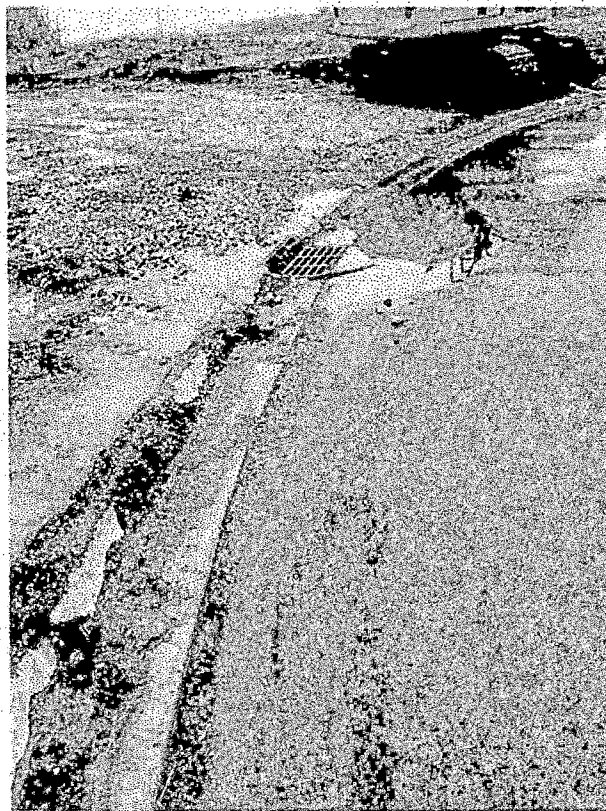
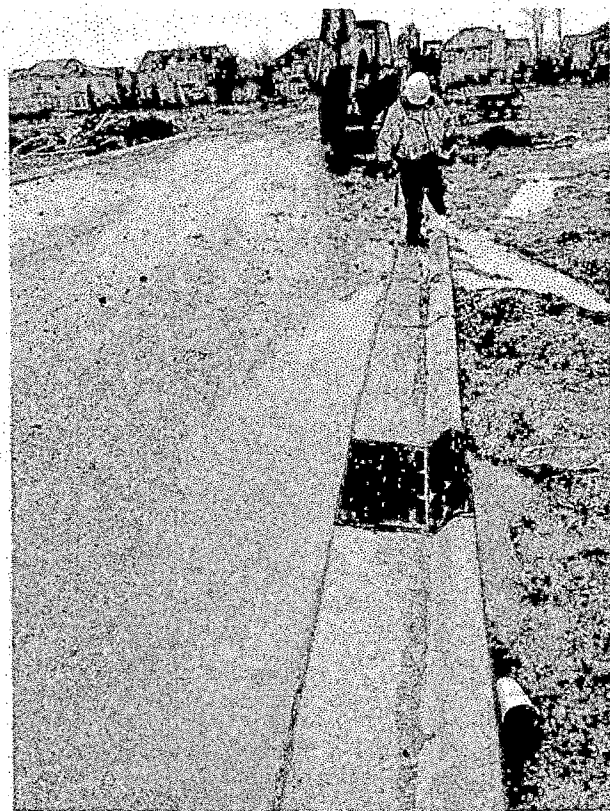
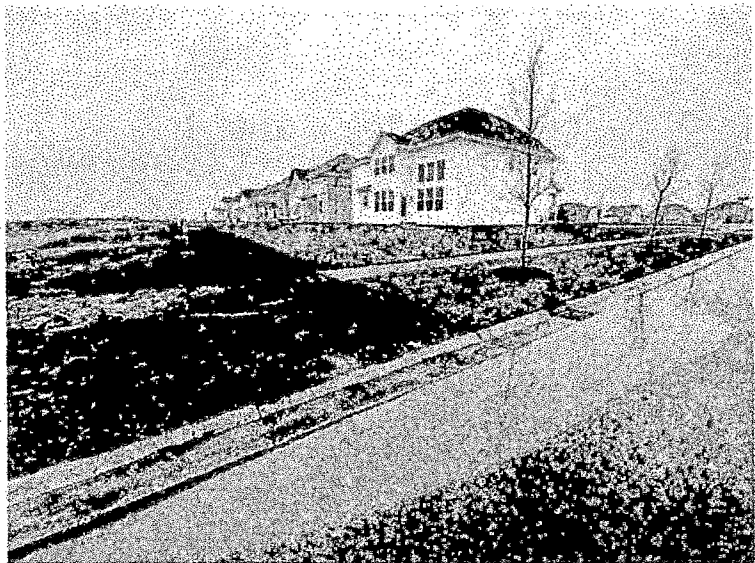


Exhibit A: Sawgrass Site

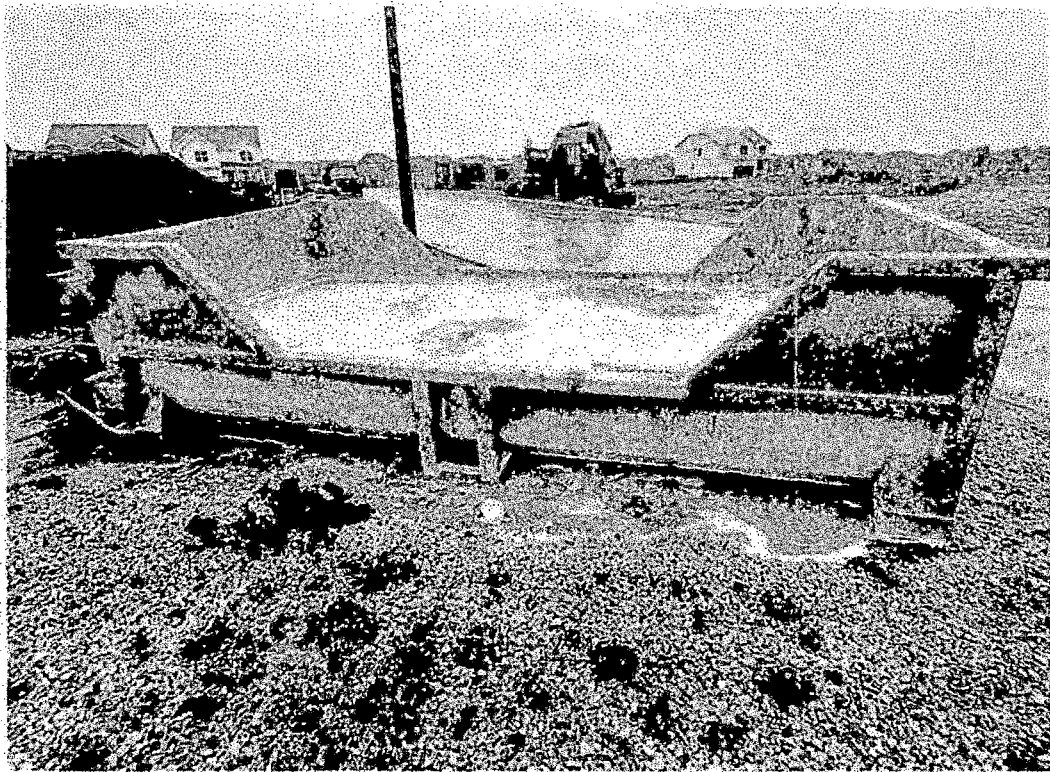


Exhibit B: Wagner Farms Site

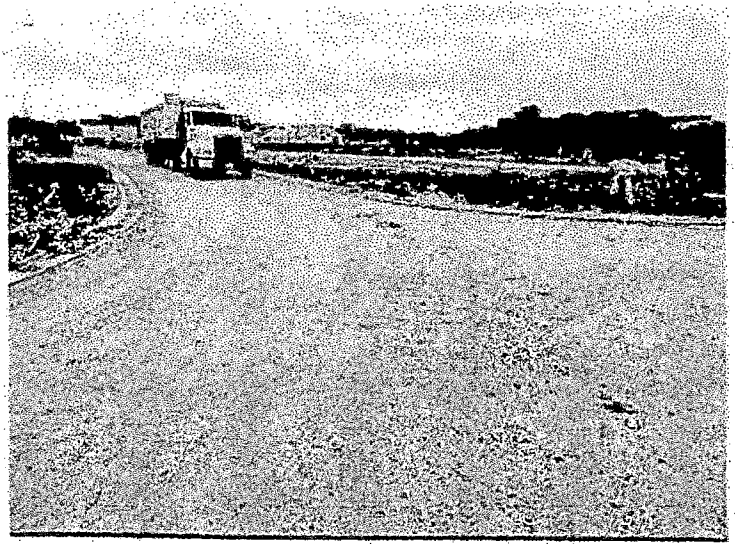
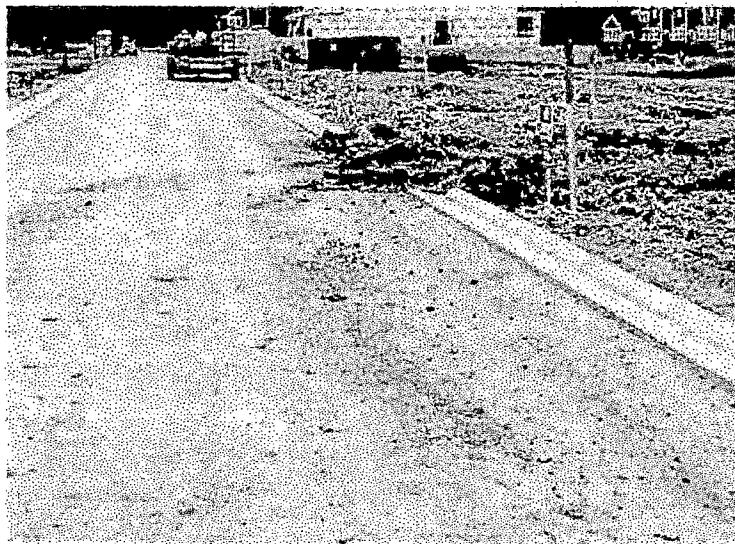
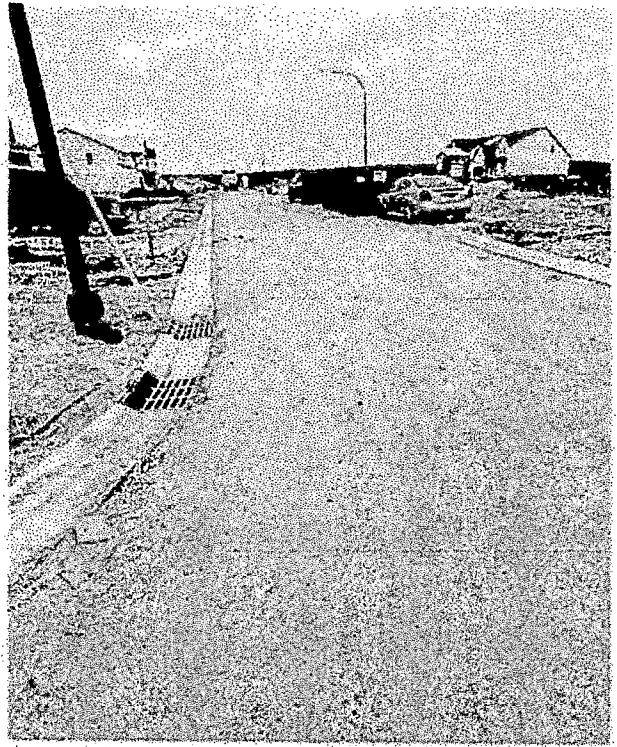


Exhibit C: Trillium Farm Site



Exhibit D: Winding Creek Site

Exhibit E: Naper Commons Site



Paul Pratas
1779 Kirby Parkway
Suite 1-92
Shermantown, TN 38135

Electronic Filing: Received, Clerk's Office 09/01/2023

Retail



62703

U.S. POSTAGE PAID
FCM LG ENV
MEMPHIS, TN 38117
JUL 29, 2023

\$6.99

R2307M152925-80

RDC 99



PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

CERTIFIED MAIL



7022 1670 0002 8011 6409

Pulte Home Company, LLC
c/o Todd Sheldon
Illinois Corporation Service Company
801 Dallas Stevenson Drive
Springfield, Ill 62703-4261

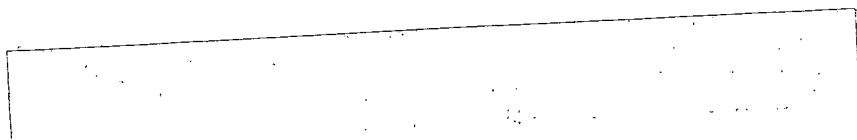


Exhibit B

ILLINOIS POLLUTION CONTROL BOARD

February 16, 2023

PAUL CHRISTIAN PRATAPAS, an)	
individual,)	
)	
Complainant,)	
)	
v.	)	PCB 23-55
	)	(Citizens Enforcement - Water)
PULTE HOME COMPANY, LLC, a Michigan)	
corporation)	
)	
Respondent.)	
)	

ORDER OF THE BOARD (by B. F. Currie):

On November 9, 2022, Paul Christian Pratapas (Mr. Pratapas) filed a citizen's complaint (Comp.) against Naper Commons by Pulte Homes, known as Pulte Home Company, LLC (Pulte). The complaint concerns Pulte's residential construction project located at 2308 West Lucent Lane in Naperville, DuPage County. On December 12, 2022, Pulte filed a motion requesting that the Board not accept the complaint for failure to properly serve the complaint on Pulte, as well as a motion to dismiss the action on the grounds that Mr. Pratapas alleges a wholly past violation (Mot.).

The Board first addresses the proper name of the respondent, then addresses the issue of service, and finally discusses the motion to dismiss. The Board directs the Clerk to correct the respondent's name, grants Pulte's motion regarding service, allows Mr. Pratapas to attempt to perfect service, and denies Pulte's motion to dismiss the complaint on the grounds of frivolousness.

NAMED RESPONDENT

As filed, Mr. Pratapas named "Naper Commons by Pulte Homes" as the respondent in this complaint. In a December 12, 2022, special and limited appearance filing, the attorney for the respondent indicated that the proper name for the respondent is "Pulte Home Company, LLC". The Board corrects the caption in this order and directs the Clerk to correct the respondent's name in the docket of this case.

SERVICE OF COMPLAINT

Under the Environmental Protection Act (Act) (415 ILCS 5 (2020)), any person may bring an action before the Board to enforce Illinois' environmental requirements. See 415 ILCS 5/3.315, 31(d)(1) (2020); 35 Ill. Adm. Code 103. Under the Board's rules, an enforcement proceeding begins by serving a notice and the complaint on a respondent. See 35 Ill. Adm. Code

103.204(a), (b). Specifically, service must be “by U.S. Mail with a recipient's signature recorded, a third-party commercial carrier with a recipient’s signature recorded, or personal service.” *Id.* Notably, enforcement complaints may not be served by e-mail. *See* 35 Ill. Adm. Code 101.1000(e).

If service is not timely initiated or completed, then the “proceeding is subject to dismissal, and the filing party is subject to sanctions.” 35 Ill. Adm. Code 101.304(b)(4). In this case, Mr. Pratapas used a sample complaint form available from the Board’s website that is directed at citizen complaints. The Board’s form includes a sample affidavit of service that lists appropriate methods of service. Mr. Pratapas reported to the Board that the complaint would be served on the respondent by “[p]ersonal service and another person made or will make the personal delivery. However, the affidavit of service signed by the other person (or the declaration of service signed by the process server) who made or will make the personal delivery is not available to me at this time.” Comp. at 10. For personal service, the form required the complainant to list the name of the person making the personal delivery and the date, time, and address at which the complaint was provided. *Id.* These items were left blank by Mr. Pratapas in his filing. *Id.*

On November 14, 2022, Mr. Pratapas filed a form from an unspecified District Court that purported to be a proof of service. The form lists options for the method of service, and Mr. Pratapas marked “personal service.” Mr. Pratapas names the person served as, “Management Construction Office, Model Home, Basement Exterior Door.” Illinois law requires that a private corporation be served by “leaving a copy of the process with its registered agent or any officer or agent of the corporation found anywhere in the State.” 735 ILCS 5/2-204 (2020). Therefore, leaving a copy of the complaint at the door of a construction site office is not proper service. The Board reviewed Mr. Pratapas’s response filed on December 15, 2022, on this issue. The Board finds that Mr. Pratapas’ statements and photographs provided in that filing do not constitute proper service.

The Board grants Pulte’s motion to not accept the complaint for failure to serve; however, the Board directs Mr. Pratapas to file the required proof of service of the complaint on the respondent no later than Monday, March 20, 2023, which is the first business day following the 30th day after the date of this order (*see* 35 Ill. Adm. Code 101.300(a)), or face dismissal of the complaint for failure to properly serve the complaint.

MOTION TO DISMISS

Ordinarily, the Board would delay its ruling on the motion to dismiss until a complaint has been properly served. However, as Pulte has filed the motion to dismiss on the grounds of frivolousness and Mr. Pratapas has responded to the motion, the Board will address the issue at this time.

Under 415 ILCS 5/31(d)(1) (2020), the Board will dismiss complaints that are frivolous. “Frivolous” is defined in the Board’s rules as, “any request for relief that the Board does not have the authority to grant, or a complaint that fails to state a cause of action upon which the Board can grant relief.” 35 Ill. Adm. Code 101.202(b). Pulte argues that the complaint alleges a

wholly past, one-time violation that occurred on May 24, 2022, and is therefore frivolous. Mot. at 3. Pulte cites to a single federal case involving defenses under the Clean Water Act, Gwaltney of Smithfield v. Chesapeake Bay Found., 484 U.S. 49 (1987). In this case, Mr. Pratapas has alleged violations of the State Environmental Protection Act, not the Clean Water Act. Therefore, Gwaltney is not applicable to the case at hand.


Past violations of the Act are still violations which may be enforced under the Act. Section 42(h) of the Act holds that “[i]n determining the appropriate civil penalty to be imposed . . . the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including, but not limited to . . . the duration and gravity of the violation.” Therefore, the Board is required to give weight to the duration of the alleged violations when determining the appropriate penalty, but Pulte is not able to use its assertion of “wholly past violations” as an affirmative defense to the complaint. The Board denies Pulte’s motion to dismiss on the grounds of frivolousness. Should notice of proper proof of service be filed with the Board by March 20, 2023, the Board will then determine whether the complaint meets the content requirements of the Board’s procedural rules. *See* 35. Ill. Adm. Code 103.204(c).

ORDER

1. The Board directs the Clerk to correct the name of the respondent in the docket.
2. The Board grants Pulte’s motion to not accept the complaint for failure to serve.
3. The Board directs Mr. Pratapas to file the required proof of service of the complaint on the respondent no later than Monday, March 20, 2023.
4. The Board denies Pulte’s motion to dismiss the complaint for frivolousness.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 16, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board

Exhibit C

ILLINOIS POLLUTION CONTROL BOARD

April 6, 2023

PAUL CHRISTIAN PRATAPAS,)	
)	
Complainant,)	
)	
v.	)	PCB 23-55
	)	(Enforcement – Water)
PULTE HOME COMPANY, LLC, a)	
Michigan corporation,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J. Van Wie):

On November 9, 2022, Paul Christian Pratapas (Mr. Pratapas) filed a citizen's complaint against Naper Commons by Pulte Homes, known as Pulte Home Company, LLC (Pulte). The complaint concerns Pulte's residential construction project located at 2308 West Lucent Lane in Naperville, DuPage County.

On December 12, 2022, Pulte filed a motion requesting that the Board not accept the complaint for failure to properly serve the complaint on Pulte, as well as a motion to dismiss the action on the grounds that Mr. Pratapas alleges a wholly past violation. On February 16, 2023, the Board granted Pulte's motion to not accept the complaint for failure to serve; denied Pulte's motion to dismiss the complaint; and directed Mr. Pratapas to file the required proof of service of the complaint on the respondent no later than Monday, March 20, 2023, or face dismissal of the complaint for failure to properly serve the complaint. *See* 35 Ill. Adm. Code 101.304(c), (d); *see also* 35 Ill. Adm. Code 103.204(a). Because Mr. Pratapas failed to timely file the required proof of service of the complaint, the Board dismisses this case and closes the docket.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 6, 2023, by a vote of 3-0.



Don A. Brown, Clerk
Illinois Pollution Control Board

Exhibit D

ILLINOIS POLLUTION CONTROL BOARD

June 1, 2023

PAUL CHRISTIAN PRATAPAS,)
)
 Complainant,)
)
 v.) PCB 23-74
) (Citizen's Enforcement - Water)
 SAWGRASS BY PULTE HOMES,)
)
 Respondent.)

ORDER OF THE BOARD (by M. Gibson):

On December 12, 2022, Paul Christian Pratapas filed a citizen's complaint (Comp.) against Sawgrass by Pulte Homes, alleging violations related to a development in DuPage County, Illinois.

On December 19, 2022, 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 the complaint on the grounds that Mr. Pratapas alleges a wholly past violation (Mot.).

The Board first addresses the proper name of the respondent, then addresses the issue of service, and finally discusses the motion to dismiss. The Board directs the Clerk to correct the respondent's name, grants the motion regarding service, allows Mr. Pratapas to attempt to perfect service, and will address the motions to dismiss the complaint at a later time.

NAMED RESPONDENT

As filed, Mr. Pratapas named "Sawgrass by Pulte Homes" as the respondent in this complaint. In its December 19, 2022, motion, the respondent's attorney indicated that the proper name for the respondent is "Pulte Home Company, LLC." The Board corrects the caption in this order and directs the Clerk to correct the respondent's name in the docket of this case.

SERVICE OF COMPLAINT

Under the Environmental Protection Act (Act) (415 ILCS 5 (2020)), any person may bring an action before the Board to enforce Illinois' environmental requirements. *See* 415 ILCS 5/3.315, 31(d)(1) (2020); 35 Ill. Adm. Code 103. Under the Board's rules, an enforcement proceeding begins by serving a notice and the complaint on a respondent. *See* 35 Ill. Adm. Code 103.204(a), (b). Specifically, service must be "by U.S. Mail with a recipient's signature recorded, a third-party commercial carrier with a recipient's signature recorded, or personal service." *Id.* Notably, enforcement complaints may not be served by e-mail. *See* 35 Ill. Adm. Code 101.1000(e).

If service is not timely initiated or completed, then the “proceeding is subject to dismissal, and the filing party is subject to sanctions.” 35 Ill. Adm. Code 101.304(b)(4). In this case, Mr. Pratapas used a sample complaint form available from the Board’s website that is directed at citizen complaints. The Board’s form includes a sample affidavit of service that lists appropriate methods of service. Mr. Pratapas reported to the Board 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 9. Illinois law requires that a private corporation be served by, “(1) leaving a copy of the process with its registered agent or any officer or agent of the corporation found anywhere in the State; or (2) in any other manner now or hereafter permitted by law.” 735 ILCS 5/2-204 (2020).

Here, the Illinois Secretary of State shows that the registered agent for respondent in Illinois is Illinois Corporation Service Company, with an address of 801 Adlai Stevenson Drive Springfield, IL 62703. As of today, Mr. Pratapas has yet to provide proof of any service on respondent.

The Board grants respondent’s motion to not accept the complaint for failure to serve; however, the Board directs Mr. Pratapas to file the required proof of service of the complaint on the respondent no later than Monday, July 3, 2023, which is the first business day following the 30th day after the date of this order (*see* 35 Ill. Adm. Code 101.300(a)), or face dismissal of the complaint for failure to properly serve the complaint.

MOTION TO DISMISS

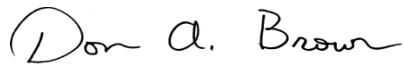
The Board cannot accept a complaint until the complaint has been properly served on the respondents. Therefore, the Board will delay its ruling on the motion to dismiss until such date, or after July 3, 2023.

ORDER

1. The Board directs the Clerk to correct the name of the respondent in the docket.
2. The Board grants respondent’s motion to not accept the complaint for failure to serve.
3. The Board directs Mr. Pratapas to file the required proof of service of the complaint on the respondents no later than Monday, July 3, 2023.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 1, 2023, by a vote of 3-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink and is positioned above the printed name and title.

Don A. Brown, Clerk
Illinois Pollution Control Board

Exhibit E

ILLINOIS POLLUTION CONTROL BOARD

July 20, 2023

PAUL CHRISTIAN PRATAPAS,)	
)	
Complainant,)	
)	
v.	)	PCB 23-74
	)	(Citizen's Enforcement - Water)
PULTE HOME COMPANY, LLC,)	
)	
Respondent.)	

ORDER OF THE BOARD (by M. Gibson):

On December 12, 2022, Paul Christian Pratapas filed a citizen's complaint (Comp.) against "Sawgrass by Pulte Homes" (Pulte), alleging violations related to a development in DuPage County, Illinois.

On December 19, 2022, Pulte 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 the complaint on the grounds that Mr. Pratapas alleges a wholly past violation.

On June 1, 2023, The Board 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 July 3, 2023, Mr. Pratapas filed a motion for extension of time to file the required proof of service. (Pratapas Mot.) Mr. Pratapas' reasons for requesting an extension of time are that he "currently cannot afford to re-serve Respondent via certified mail..." and that he "still has not been able to identify a registered agent to receive service." Pratapas Mot. at 1. Also on July 3, 2023, Pulte filed a motion objecting to Mr. Pratapas' motion. (Pulte Mot.) Pulte argues that Mr. Pratapas' motion is "devoid of justification for extension, at law or in equity." Pulte Mot. at 1.

On July 17, 2023, Mr. Pratapas filed a certified mail receipt indicating that he mailed something to the respondent's attorney that was mailed on July 15, 2023. Mr. Pratapas did not file documentation of what was mailed on July 15, 2023

A total of 220 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 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. *See* IPCB Form. Comp. Pkg. at 4. Additionally, the instructions inform potential files of the following:

To file with the Board your Formal Complaint or any other document in the enforcement proceeding, you do not pay any filing fee to the Board. The Board will pay its own hearing costs, such as hearing room rental, court reporting fees, and hearing officer expenses. You are responsible for the costs that you or your attorney may incur in pursuing your complaint (e.g., attorney fees, duplicating charges, travel expenses, and witness fees). *Id.* at 6.

The nominal expense of serving the complaint upon a respondent is an expense that must be borne by the complainant. Therefore, the Board denies Mr. Pratapas' motion. 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 motion to dismiss is 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.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
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
SWANSON, MARTIN & BELL, LLP Michael J. Maher J. A. Koehler 330 N. Wabash Ave., Suite 3300 Chicago, IL 60611 mmaher@smbtrials.com jkoehler@smbtrials.com	

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.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large initial "D" and "B".

Don A. Brown, Clerk
Illinois Pollution Control Board

Exhibit F

ILLINOIS POLLUTION CONTROL BOARD

December 15, 2022

PAUL CHRISTIAN PRATAPAS,)	
)	
Complainant,)	
)	
v.	)	PCB 23-54
	)	(Citizen's Enforcement - Water)
WAGNER FARMS BY PULTE HOMES,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J. Van Wie):

On November 9, 2022, Paul Christian Pratapas filed a citizen's complaint (Comp.) against Wagner Farms by Pulte Homes (Pulte). The complaint concerns Pulte's residential construction at 3723 Quick Fire Drive in Naperville, Will County. Comp. at 2.

Under the Board's rules, an enforcement proceeding commences by serving a notice and complaint on a respondent. 35 Ill. Adm. Code 103.204(a), (b). Service must be "by U.S. Mail with a recipient's signature recorded, a third-party commercial carrier with a recipient's signature recorded, or personal service." *Id.* Enforcement complaints may not be served by e-mail. *See* 35 Ill. Adm. Code 101.1000(e). "A proceeding is subject to dismissal, and the filing party is subject to sanctions, if service is not timely initiated or completed." 35 Ill. Adm. Code 101.304(b)(4).

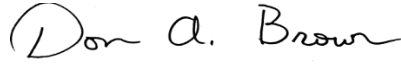
Mr. Pratapas relies on a sample complaint form available from the Board. It includes a form affidavit of service listing methods for service. On it, Mr. Pratapas indicated that the complaint would be served on the respondent by "[p]ersonal service and another person made or will make the personal delivery. However, the affidavit of service signed by the other person (or the declaration of service signed by the process server) who made or will make the personal delivery is not available to me at this time." *Id.* at 9. Although the form affidavit requested the name of the person making personal delivery and the date, time, and address at which the complaint was provided to them, it did not include any of those items of information.

On November 13, 2022, Mr. Pratapas filed a form proof of service from an unspecified District Court. The form lists options for the method of service. Mr. Pratapas checked the option indicating that, "[a]fter all due diligence, I was unable to locate and serve the targeted person(s)."

The Board directs Mr. Pratapas to file the required proof of service of the complaint on the respondent no later than Tuesday, January 16, 2023, which is the first business day following the 30th day after the date of this order (*see* 35 Ill. Adm. Code 101.300(a)), or face dismissal of the complaint.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 15, 2022, by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown".

Don A. Brown, Clerk
Illinois Pollution Control Board

Exhibit G

ILLINOIS POLLUTION CONTROL BOARD

June 1, 2023

PAUL CHRISTIAN PRATAPAS,)
)
 Complainant,)
)
 v.) PCB 23-54
) (Citizen's Enforcement - Water)
WAGNER FARMS BY PULTE HOMES,)
)
 Respondent.)

ORDER OF THE BOARD (by J. Van Wie):

On November 9, 2022, Paul Christian Pratapas filed a citizen's complaint (Comp.) against Wagner Farms by Pulte Homes (Pulte or respondent). The complaint concerns Pulte's residential construction at 3723 Quick Fire Drive in Naperville, Will County. Comp. at 2. On December 5, 2022, the Board directed Mr. Pratapas to file the required proof of service of the complaint on the respondent no later than Tuesday, January 16, 2023 (*see* 35 Ill. Adm. Code 101.300(a)), or face dismissal of the complaint.

On December 29, 2022, Mr. Pratapas filed a certified mail return receipt indicating service on:

Swanson, Martin, & Bell
330 N. Wabash Ave
#3300
Chicago, IL 60611

On January 17, 2023, the respondent filed a motion asking the Board not to accept the complaint. The respondent argues that the complaint was not properly served, and should be dismissed. The respondent also notes that its name is Pulte Home Company, LLC.

The Board first addresses the proper name of the respondent, then addresses the issue of service. The Board directs the Clerk to correct the respondent's name, grants respondent's motion regarding service, and concludes to dismiss the complaint.

NAMED RESPONDENT

As filed, Mr. Pratapas named "Wagner Farms by Pulte Homes" as the respondent in this complaint. In its January 17, 2023, motion, the attorney for respondent indicated that the proper name for the respondent is "Pulte Home Company, LLC". The Board corrects the caption in this order and directs the Clerk to correct the respondent's name in the docket of this case.

SERVICE OF COMPLAINT

Under the Environmental Protection Act (Act) (415 ILCS 5 (2020)), any person may bring an action before the Board to enforce Illinois' environmental requirements. *See* 415 ILCS 5/3.315, 31(d)(1) (2020); 35 Ill. Adm. Code 103. Under the Board's rules, an enforcement proceeding begins by serving a notice and the complaint on a respondent. *See* 35 Ill. Adm. Code 103.204(a), (b). Specifically, service must be "by U.S. Mail with a recipient's signature recorded, a third-party commercial carrier with a recipient's signature recorded, or personal service." *Id.* Notably, enforcement complaints may not be served by e-mail. *See* 35 Ill. Adm. Code 101.1000(e).

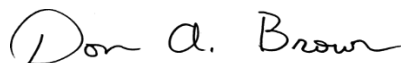
If service is not timely initiated or completed, then the "proceeding is subject to dismissal, and the filing party is subject to sanctions." 35 Ill. Adm. Code 101.304(b)(4). In this case, Mr. Pratapas improperly served the complaint, and the Board offered him the opportunity to correct the service. Mr. Pratapas instead filed proof that something was mailed to respondent's attorneys. The complaint was sent via certified mail to a person not authorized by law to accept service. Illinois law requires that a private corporation be served by "(1) leaving a copy of the process with its registered agent or any officer or agent of the corporation found anywhere in the State; or (2) in any other manner now or hereafter permitted by law." 735 ILCS 5/2-204 (2020).

The Board's rules also provide that if a party is represented by an attorney who has filed an appearance, service upon the party is made by serving the document upon the party's attorney. 35 Ill. Adm. Code 101.304(b)(1). Respondent's attorneys filed their appearance with the Board on January 17, 2023 (Resp. App.), but they were corresponding with Mr. Pratapas as representatives of respondent as of at least December 13, 2022. Paul Christian Pratapas v. Wagner Farms by Pulte Homes, PCB 23-54, Correspondence between Paul Christian Pratapas and A. Jay Koehler, Swanson, Martin & Bell, LLP (Dec. 13, 2022). While Mr. Pratapas' certified mail return receipt indicates that he mailed something to respondent's attorneys, Mr. Pratapas did not file documentation or an affidavit of proof of service indicating that this mailing was the complaint in this matter. *See* 35 Ill. Adm. Code 101.304(d). Accordingly, Mr. Pratapas did not perfect service on the respondent.

Because Mr. Pratapas has failed to timely perfect service of the complaint on the respondent, the Board grants the motion to not accept the complaint. Further, because Mr. Pratapas was given an opportunity to correct service errors, and failed to do so, the Board dismisses the complaint.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 1, 2023, by a vote of 3-0.



Don A. Brown, Clerk
Illinois Pollution Control Board

Exhibit H

ILLINOIS POLLUTION CONTROL BOARD

May 18, 2023

PAUL CHRISTIAN PRATAPAS,)
)
 Complainant,)
)
 v.) PCB 23-63
) (Citizen Enforcement Action – Water)
 PULTE HOME COMPANY, LLC, a Michigan)
 limited liability company,)
)
 Respondent.)

ORDER OF THE BOARD (by M. Gibson):

On November 28, 2022, Paul Christian Pratapas filed a citizen’s complaint (Comp.) against Trillium Farm by Pulte Homes, LLC (Pulte). The complaint concerns Pulte’s residential construction located at Purnell Road, Winfield, DuPage County.¹ On December 19, 2022, Pulte 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 on the grounds that the complaint is frivolous and alleges a wholly past violation (Mot.).

The Board first addresses the proper name of the respondent, then addresses the issue of service, and finally discusses the motion to dismiss. The Board directs the Clerk to correct the respondent’s name, grants Pulte’s motion regarding service, allows Mr. Pratapas to attempt to perfect service, and will address the motion to dismiss the complaint at a later time.

NAMED RESPONDENT

As filed, Mr. Pratapas named “Trillium Farms by Pulte Homes” as the respondent in this complaint. In its December 19, 2022, motion, the attorney for Pulte indicated that the proper name for the respondent is “Pulte Home Company, LLC.” The Board corrects the caption in this order and directs the Clerk to correct the respondent’s name in the docket of this case.

SERVICE OF COMPLAINT

Under the Environmental Protection Act (Act) (415 ILCS 5 (2020)), any person may bring an action before the Board to enforce Illinois’ environmental requirements. *See* 415 ILCS 5/3.315, 31(d)(1) (2020); 35 Ill. Adm. Code 103. Under the Board’s rules, an enforcement proceeding begins by serving a notice and the complaint on a respondent. *See* 35 Ill. Adm. Code 103.204(a), (b). Specifically, service must be “by U.S. Mail with a recipient's signature recorded, a third-party commercial carrier with a recipient’s signature recorded, or personal

¹ The complaint does not cite the specific address of the alleged violation. Rather it states that the violation happened on Purnell Road in Winfield, Illinois because the signage was missing. Comp. at 2.

service.” *Id.* Notably, enforcement complaints may not be served by e-mail. *See* 35 Ill. Adm. Code 101.1000(e).

If service is not timely initiated or completed, then the “proceeding is subject to dismissal, and the filing party is subject to sanctions.” 35 Ill. Adm. Code 101.304(b)(4). In this case, Mr. Pratapas used a sample complaint form available from the Board’s website that is directed at citizen complaints. The Board’s form includes a sample affidavit of service that lists appropriate methods of service. Mr. Pratapas reported to the Board 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 9. Illinois law requires that a private corporation be served by, “(1) leaving a copy of the process with its registered agent or any officer or agent of the corporation found anywhere in the State; or (2) in any other manner now or hereafter permitted by law.” 735 ILCS 5/2-204 (2020).

Here, the Illinois Secretary of State shows that the registered agent for Pulte Home Company, LLC in Illinois is Illinois Corporation Service Company, whose address is 801 Adlai Stevenson Drive, Springfield, Illinois, 62703. However, Mr. Pratapas did not serve the company as seen in the “Documentation of Service,” indicating “[a]fter all due diligence [Mr. Pratapas] was unable to locate and serve the targeted person(s).” As noted above, the Board rules require service of a complaint in an enforcement proceeding. Therefore, because Mr. Pratapas did not personally serve Pulte’s registered agent in Illinois, service was not proper on Pulte.

The Board grants Pulte’s motion to not accept the complaint for failure to serve; however, the Board directs Mr. Pratapas to file the required proof of service of the complaint on the respondent no later than Monday, June 19, 2023, which is the first business day following the 30th day after the date of this order (*see* 35 Ill. Adm. Code 101.300(a)), or face dismissal of the complaint for failure to properly serve the complaint.

MOTION TO DISMISS

The Board cannot accept a complaint until the complaint has been properly served on respondent. Therefore, the Board will delay its ruling on the motion to dismiss until such date, or after June 19, 2023.

ORDER

1. The Board directs the Clerk to correct the name of the respondent in the docket.
2. The Board grants Pulte’s motion to not accept the complaint for failure to serve.
3. The Board directs Mr. Pratapas to file the required proof of service of the complaint on the respondent no later than Monday, June 19, 2023.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 18, 2023, by a vote of 3-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large, circular initial "D".

Don A. Brown, Clerk
Illinois Pollution Control Board

Exhibit I

ILLINOIS POLLUTION CONTROL BOARD

July 6, 2023

PAUL CHRISTIAN PRATAPAS,)
)
 Complainant,)
)
 v.) PCB 23-63
) (Citizen Enforcement Action – Water)
 PULTE HOME COMPANY, LLC, a Michigan)
 limited liability company,)
)
 Respondent.)


ORDER OF THE BOARD (by M. Gibson):

On November 28, 2022, Paul Christian Pratapas (Mr. Pratapas) filed a citizen’s complaint against Trillium Farms by Pulte Homes, LLC. The complaint concerns Pulte’s residential construction located at Purnell Road, Winfield, DuPage County. On December 19, 2022, Pulte 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 on the grounds that the complaint is frivolous and alleges a wholly past violation.

On May 18, 2023, the Board granted Pulte’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 June 19, 2023, or face dismissal of the complaint for failure to properly serve the respondents. *See* 35 Ill. Adm. Code 101.304(c), (d); *see* also 35 Ill. Adm. Code 103.204(a). Because Mr. Pratapas failed to timely file the required proof of service of the complaint, the Board dismisses this case and closes the docket.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 6, 2023, by a vote of 3-0.



Don A. Brown, Clerk
Illinois Pollution Control Board

Exhibit J

ILLINOIS POLLUTION CONTROL BOARD

June 15, 2023

PAUL CHRISTIAN PRATAPAS, an)	
individual,)	
)	
Complainant,)	
)	
v.	)	PCB 23-79
	)	(Citizens Enforcement - Water)
PULTE HOME COMPANY, LLC, a Michigan)	
corporation, AND CITY OF BATAVIA,)	
)	
Respondents.)	

ORDER OF THE BOARD (by B. F. Currie):

On December 15, 2022, Paul Christian Pratapas (Mr. Pratapas) filed a citizen’s complaint (Comp.) against Winding Creek by Pulte Homes (Pulte), and the City of Batavia (Batavia). The complaint concerns Pulte’s residential construction project located at the intersection of McKee Street and Deerpath Road in Batavia, Kane County.¹ On January 11, 2023, Pulte filed a motion requesting that the Board not accept the complaint for failure to properly serve the complaint on Pulte, as well as a motion to dismiss the action on the grounds that Mr. Pratapas alleges a wholly past violation (Pulte Mot.). On January 18, 2023, Batavia filed a motion to dismiss pursuant to 415 ILCS 5/31(d)(1) (2020) and 35 Ill. Adm. Code 101.202 (Batavia Mot.).

The Board first addresses the proper name of the respondent, then addresses the issue of service, and finally discusses the motions to dismiss from Pulte and Batavia. The Board directs the Clerk to correct respondent Pulte’s name, grants Pulte’s motion regarding service, allows Mr. Pratapas to attempt to perfect service, grants, in part, Batavia’s motion to dismiss the complaint on the grounds of failure to state a cause of action and frivolousness, and allows Mr. Pratapas to file an amended complaint.

NAMED RESPONDENT

As filed, Mr. Pratapas named “Winding Creek by Pulte Homes” as the respondent in this complaint. In its December 12, 2022, motion, the attorney for Pulte indicated that the proper name for the respondent is “Pulte Home Company, LLC”. The Board corrects the caption in this order and directs the Clerk to correct the respondent’s name in the docket of this case.

¹ The complaint does not cite the specific address of the alleged violation. Rather it states that the violation happened at the intersection of McKee Street and Deerpath Road in Batavia. Comp. at 2

SERVICE OF COMPLAINT

Under the Environmental Protection Act (Act) (415 ILCS 5 (2020)), any person may bring an action before the Board to enforce Illinois' environmental requirements. *See* 415 ILCS 5/3.315, 31(d)(1) (2020); 35 Ill. Adm. Code 103. Under the Board's rules, an enforcement proceeding begins by serving a notice and the complaint on a respondent. *See* 35 Ill. Adm. Code 103.204(a), (b). Specifically, service must be "by U.S. Mail with a recipient's signature recorded, a third-party commercial carrier with a recipient's signature recorded, or personal service." *Id.* Notably, enforcement complaints may not be served by e-mail. *See* 35 Ill. Adm. Code 101.1000(e).

If service is not timely initiated or completed, then the "proceeding is subject to dismissal, and the filing party is subject to sanctions." 35 Ill. Adm. Code 101.304(b)(4). In this case, Mr. Pratapas used a sample complaint form available from the Board's website that is directed at citizen complaints. The Board's form includes a sample affidavit of service that lists appropriate methods of service. Mr. Pratapas reported to the Board 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 [Mr. Pratapas] currently." Comp. at 10. For personal service, the form required the complainant to list the date, time, and address at which the complaint was provided. *Id.* These items were left blank by Mr. Pratapas in his filing, which lacked any other documentation demonstrating proof of service on Pulte. *Id.*

The Board grants Pulte's motion to not accept the complaint for failure to serve; however, the Board directs Mr. Pratapas to file the required proof of service of the complaint on the respondent no later than Monday, July 17, 2023, which is the first business day following the 30th day after the date of this order (*see* 35 Ill. Adm. Code 101.300(a)), or face dismissal of the complaint for failure to properly serve the complaint.

PULTE'S MOTION TO DISMISS

The Board cannot accept a complaint without proper service on respondent. Therefore, because service was improper on Pulte, the Board will delay its ruling on Pulte's motion to dismiss until service is proper.

BATAVIA'S MOTION TO DISMISS

The record includes an affidavit of service indicating that Mr. Pratapas personally delivered a copy of the complaint to "Laura for the City of Batavia" on December 20, 2022. Batavia does not challenge service.

Under 415 ILCS 5/31(d)(1) (2020), the Board can dismiss complaints that are frivolous. "Frivolous" is defined in the Board's rules as, "any request for relief that the Board does not have the authority to grant, or a complaint that fails to state a cause of action upon which the Board can grant relief." 35 Ill. Adm. Code 101.202(b). In its motion to dismiss, Batavia argues that Mr. Pratapas requests relief which cannot be granted by the Board. In his complaint, Mr. Pratapas requests that the Board:

1. Find that Respondent violated the Act and its permits;
2. Assess a civil penalty of \$50,000 against Respondent for each violation of the Act and an additional civil penalty of \$10,000 for each day of each violation;
3. A Board order “prohibiting Andrea Podraza from acting as a gate keeper in her role with the NDPEs program because of her ego;”
4. A review of the site contractor certifications;
5. A Board order stating Pulte must follow the plans approved by the Board and adhering to rules for concrete washout;
6. A Board order requiring Pulte to provide access to the Stormwater Pollution Prevention Plan (SWPPP) book;
7. A Board order requiring Batavia to provide complainant with the “original approved SWPPP;”
8. A Board order voiding the permit for the site until all open enforcement cases are closed and changes made to Pulte’s operations. Comp. at 5-6.

Complaints must request relief that the Board has the ability to grant. *See* 35 Ill. Adm. Code 101.202(d). The Board has broad statutory authority to grant relief; however, it does not have the authority to prohibit employees of the City of Batavia from “gatekeeping”; to review site contractor certifications; nor can it order Batavia to provide the complainant with the original approved SWPPP. Therefore, the Board strikes relief requests numbered 3, 4, and 7 of the Complaint. *See* 35 Ill. Adm. Code 101.106(b).

Batavia also argues that the complaint is frivolous because it fails to state a cause of action as related to Batavia. Batavia Mot. at 3. The Board’s procedural rules require complaints to include “dates, location, events, nature, extent, duration, and strength of discharges or emissions and consequences alleged to constitute violations.” 35 Ill. Adm. Code 103.204(c)(2). Mr. Pratapas’ complaint alleges that the violations occurred on December 13, 2022 at 11:13 p.m. at McKee Street and Deerpath Road in Batavia. Comp. at 2. However, the complaint lacks any details describing how respondent Batavia contributed to the extent, duration, or strength of the alleged violations. *Id.* Therefore, the Board grants, in part, Batavia’s motion to dismiss. However, the Board gives Mr. Pratapas 30 days to amend his complaint as to the specificity of the violations. The Board directs Mr. Pratapas to file an amended complaint by July 17, 2023.

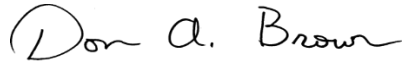
ORDER

1. The Board directs the Clerk to correct the name of respondent Pulte in the docket.
2. The Board grants Pulte’s motion to not accept the complaint for failure to serve.
3. The Board directs Mr. Pratapas to file the required proof of service of the complaint on Pulte no later than Monday, July 17, 2023.
3. The Board grants, in part, Batavia’s motion to dismiss the complaint.

4. The Board strikes three of Mr. Pratapas's relief requests as related to Batavia, numbered 3, 4 and 7.
5. The Board directs Mr. Pratapas to file an amended complaint by July 17, 2023.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 15, 2023, by a vote of 3-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large, looped initial "D".

Don A. Brown, Clerk
Illinois Pollution Control Board

Exhibit K

ILLINOIS POLLUTION CONTROL BOARD

August 3, 2023

PAUL CHRISTIAN PRATAPAS,)	
)	
Complainant,)	
)	
v.	)	PCB 23-79
	)	(Citizens Enforcement - Water)
PULTE HOME COMPANY, LLC, a)	
Michigan corporation, and CITY OF)	
BATAVIA,)	
)	
Respondents.)	

ORDER OF THE BOARD (by J. Van Wie):

On December 15, 2022, Paul Christian Pratapas (Mr. Pratapas) filed a citizen's complaint (Comp.) against Winding Creek by Pulte Homes (Pulte) and the City of Batavia (Batavia). The complaint concerns Pulte's residential construction project located at the intersection of McKee Street and Deerpath Road in Batavia, Kane County.¹

On January 11, 2023, Pulte filed a motion that the Board not accept the complaint for failure to properly serve, as well as a motion to dismiss the complaint on the grounds that Mr. Pratapas alleges a wholly past violation (Pulte Mot.). On January 18, 2023, Batavia filed a motion to dismiss pursuant to 415 ILCS 5/31(d)(1)(2020) and 35 Ill. Adm. Code 101.202 (Batavia Mot.). On June 15, 2023, the Board directed the Clerk to correct the name of Pulte in the docket; struck three of Mr. Pratapas' requests for relief; granted, in part, Batavia's motion to dismiss; and granted Pulte's motion not to accept the complaint, but directed Mr. Pratapas to file proof of service, as well as an amended complaint, within 30 days, or face dismissal of the complaint.

FAILURE TO FILE AMENDED COMPLAINT

On June 15, 2023, the Board directed Mr. Pratapas to file an amended complaint that cures the deficiencies in the complaint no later than July 17, 2023, or face dismissal of the complaint for failure to plead the violations and requests for relief with specificity. *See* 35 Ill. Adm. Code 101.202(b). Mr. Pratapas has failed to file an amended complaint. Because Mr. Pratapas failed to timely file an amended complaint, the Board dismisses this case and closes the docket.

¹ The complaint does not cite the specific address of the alleged violation. Rather, it states that the violation happened at the intersection of McKee Street and Deerpath Road in Batavia. Comp. at 2.

Electronic Filing: Received, Clerk's Office 09/01/2023

To the extent that the Board has not yet ruled on Batavia's motion to dismiss, because this case has now been dismissed, the Board denies Batavia's motion to dismiss as moot.

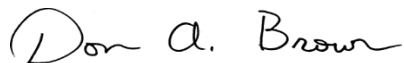
IT IS SO ORDERED.

Board Member M.D. Mankowski abstained.

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.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
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 E. Van Buren St., Suite 630 Chicago, Illinois 60605
Swanson, Martin & Bell Attn: Michael J. Maher Attn: Gregory M. Emry Attn: J.A. Koehler 330 North Wabash Ave., Ste. 3300 Chicago, Illinois 60611 mmaher@smbtrials.com gemry@smbtrials.com jkoehler@smbtrials.com	
Drendel & Jansons Law Group Attn: Roman J. Seckel, City Attorney 111 Flinn Street Batavia, Illinois 60510 rjs@batavialaw.com	

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

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large, circular initial "D".

Don A. Brown, Clerk
Illinois Pollution Control Board