

ILLINOIS POLLUTION CONTROL BOARD
April 17, 2025

MICHAEL LAURENZANA,)
)
 Petitioner,)
)
 v.) PCB 25-43
) (Enforcement)
 UNDESIGNATED BY COMPLAINANT,)
)
 Respondent.)

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

This matter first came before the Board on January 24, 2025, through a letter addressed to the Board submitted *pro se* by Mr. Michael Laurenzana. The letter stated that it was a complaint “filed in accordance with 415 ILCS 5/31(d)(1) (2022) and 35 Ill. Adm. Code 103 [Enforcement].” In an order on February 6, 2025, the Board did not proceed to determine whether the complaint was frivolous or duplicative and declined to accept the complaint for hearing. While the Board noted that Mr. Laurenzana could file an amended complaint, the Board did not receive one and on March 20, 2025, dismissed the case and closed the docket.

In an email to the Board’s Clerk on April 2, 2025, Mr. Laurenzana requested that the Board “reconsider its stance.” The Board construes this email as a motion to reconsider its March 20, 2025 order. *See* 35 Ill. Adm. Code 101.520.

Below, the Board first reviews docket PCB 25-27 previously initiated by Mr. Laurenzana. The Board then addresses the complaint originally filed in this docket and the email submission on April 2, 2025, that the Board construes as a motion to reconsider its March 20, 2025 order dismissing this case. The Board then reaches its conclusion.

PCB 25-27

PCB 25-27 originated with a letter submitted *pro se* by Mr. Laurenzana to the Board’s Chair and Members and received on November 25, 2024. In an order on December 5, 2024, the Board noted that

[t]he heading of the letter suggests that Mr. Laurenzana seeks a cease and desist order, and the text of the letter refers to non-compliant activities, both of which appear to the Board to be consistent with the language of a citizen’s enforcement complaint. However, the letter refers to a National Pollutant Discharge Elimination System (NPDES) permit by number. Also, it cites Section 40(e)(1) of the Environmental Protection Act (Act), which provides that, “[i]f the [Illinois Environmental Protection] Agency grants or denies a permit under subsection (b) of Section 39 of this Act, a third party, other than the permit applicant or Agency,

may petition the Board within 35 days from the date of issuance of the Agency's decision, for a hearing to contest the decision of the Agency." 415 ILCS 5/40(e)(1) (2022).

Because it appeared more likely to the Board that Mr. Laurenzana wished to meet the 35-day deadline to appeal an NPDES permit, the Board construed the letter as a petition for review of an NPDES permit.

However, the Board identified several areas in which the letter was deficient as a petition. In spite of those deficiencies, the Board did not dismiss the action but instead directed Mr. Laurenzana by January 6, 2025, to file and properly serve an amended petition in accordance with the Board's order and with the Act and Board rules, including those listed in the Board's order. Laurenzana v. IEPA, PCB 25-27, slip op. at 2 (Dec. 5, 2024). The Board stated that, "[i]f Mr. Laurenzana files an amended petition, the Board at that time will determine whether the original petition filed November 25, 2024, was timely and whether it will accept the amended petition for hearing."

On January 6, 2025, Mr. Laurenzana timely responded with a letter addressed to the Member of the Board, which the Board construed as an amended petition. In an order on January 23, 2025, the Board found that the amended petition had not cured the deficiencies identified in the earlier order. Among the deficiencies he had not cured, the Board noted that

Mr. Laurenzana, as petitioner, must name one or more respondents in his petition (see 35 Ill. Adm. Code 105.202(b)) and serve a copy of his petition on respondents (35 Ill. Adm. Code 101.304). The amended petition does not clearly name one or more respondents and does not include documentation of service on anyone.

The Board declined to accept the amended petition and closed the docket. Laurenzana v. IEPA, PCB 25-27, slip op. at 2 (Jan. 23, 2025).

However, the order stated that, if Mr. Laurenzana wished to file a citizen's complaint alleging that one or more entities or individuals has violated the Act, the Board's regulations, or a permit issued under the Act, he could do so. The order added that "[a] citizen's complaint must comply with the applicable requirements of the Act and the Board's procedural rules." Laurenzana v. IEPA, PCB 25-27, slip op. at 2 (Jan. 23, 2025), citing 415 ILCS 5/31(d)(1) (2022); 35 Ill. Adm. Code 103. The Board stressed that

[t]he Board's website (pcb.illinois.gov) provides information on how to both file a complaint with the Board and serve a copy of the complaint on a respondent or respondents. A citizen's complaint must comply with the applicable requirements of the Act and the Board's procedural rules. See 415 ILCS 5/31(d)(1) (2022); 35 Ill. Adm. Code 103.

JANUARY 24, 2025 FILING

Under Section 31(d)(1) of the Act, “[a]ny person may file with the Board a complaint, . . . against any person allegedly violating this Act, any rule or regulation adopted under this Act, any permit or term of condition of a permit, or any Board order.” 415 ILCS 5/31(d)(1) (2022); *see* 415 ILCS 5/5(d) (2022); 35 Ill. Adm. Code 103 (Enforcement).

Under the Board’s procedural rules, “[a]n enforcement proceeding will be commenced by the service of a notice and complaint by U.S. Mail with a recipient's signature recorded, a third-party commercial carrier with a recipient's signature recorded, or personal service upon all respondents and the filing of the notice and complaint with the Clerk.” 35 Ill. Adm. Code 103.204(a), citing 35 Ill. Adm. Code 101.300(b), (c), 101.302(h), 101.304(c)(2). The rules also require that “[t]he notice must be directed to the respondents notifying them of the filing of the accompanying complaint and that they may be required to attend a hearing at a date set by the Board. 35 Ill. Adm. Code 103.204(b).

Section 31(d)(1) of the Act provides that, unless the Board determines that a complaint is duplicative or frivolous, it will schedule a hearing. 415 ILCS 5/31(d)(1) (2022). A complaint is frivolous if it requests “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.” A complaint is duplicative if it is “identical or substantially similar to one brought before the Board or another forum.” 35 Ill. Adm. Code 101.202.

On January 24, 2025, in a letter addressed to the Board, Mr. Laurenzana submitted a complaint “in accordance with 415 ILCS 5/31(d)(1) and 35 Ill. Adm. Code 103.” In an order on February 6, 2025, the Board stated that it had reviewed it in detail. The letter refers to an anhydrous ammonia bulk storage facility owned by Central Commodities. The complaint also alleges that it “has been constructed without necessary permit approval.” However, the complaint does not identify as a respondent any person or persons alleged to have committed a violation on which the Board can conduct a hearing. Also, as with his amended petition for review filed on January 6, 2025, Mr. Laurenzana’s complaint “does not include documentation of service on anyone.” *See Laurenzana v. IEPA*, PCB 25-27, slip op. at 2 (Jan. 23, 2025).

The Board did not proceed to determine whether the complaint was frivolous or duplicative and declined to accept the complaint for hearing. However, if Mr. Laurenzana wished to pursue an enforcement action, the Board directed him to file an amended complaint within 30 days by Monday, March 10, 2025, or face dismissal of this docket. The order stressed that any complaint must comply with applicable requirements of the Act and the Board’s procedural rules at 35 Ill. Adm. Code 103. The Board directed Mr. Laurenzana’s attention to its website at pcb.illinois.gov, which “provides information on how to both file a complaint with the Board and serve a copy of the complaint on a respondent or respondents.” The Board did not receive an amended complaint and on March 20, 2025, dismissed the case and closed the docket.

DISCUSSION OF FILING CONSTRUED A MOTION TO RECONSIDER

As an initial matter, the Board recognizes that Mr. Laurenzana has consistently expressed emphatic opinions about the general risks of storing anhydrous ammonia. The Board believes that he has offered those opinions candidly and that his concerns are genuine.

As noted above, in an email to the Board's Clerk on April 2, 2025, Mr. Laurenzana requested that the Board "reconsider its stance." The Board construes this email as a timely motion to reconsider its March 20, 2025 order dismissing his complaint. *See* 35 Ill. Adm. Code 101.520.

The Board's procedural rules allow parties to file a motion for reconsideration of a Board order. In ruling on a motion for reconsideration, the Board considers factors including new evidence or a change in the law to conclude that the Board's decision was in error. 35 Ill. Adm. Code 101.902.

Mr. Laurenzana's email again stresses his concerns with storing anhydrous ammonia, which the Board above has recognized and credited as genuine. However, he has not cited newly-discovered evidence that was not previously available to him, and he has not identified any change in the law that might justify a different decision than that reached earlier by the Board. Furthermore, the Board has reviewed the complaint submitted with his email on April 2, 2025, and the complaint he originally submitted on January 24, 2024. Although the first was addressed to the Board and the second to EPA, they are otherwise substantially similar if not identical to one another. In addition, when it dismissed the complaint on March 20, 2025, the Board emphasized that "an enforcement complaint begins with serving the complaint on all respondents (35 Ill. Adm. Code 103.204(a))." At that time, Mr. Laurenzana had failed to document service on anyone. Nothing in his April 2, 2025 email indicates that he has addressed this significant deficiency. For these reasons, the Board declines to reconsider its March 20, 2025 order dismissing the complaint filed in this docket.

Having done so, the Board wishes to clarify that, although it has specific and important authority under the Environmental Protection Act, that authority is limited. Under Section 5(d) of the Act, the Board can conduct a proceeding on a complaint alleging a violation of the Act or rules adopted under the Act or a permit. 415 ILCS 5/5(d) (2022). The Board's procedural rules specifically define a "complaint" as "the initial filing that begins an enforcement proceeding under Section 31 of the Act and 35 Ill. Adm. Code 103." 35 Ill. Adm. Code 101.202. This differs from the more general and common definition of the term. For the Board to accept and consider a complaint, it must meet the requirements of the Act and the Board's rules. If at the conclusion of enforcement proceeding the Board concludes that a respondent has committed a violation, it may at that stage consider a remedy. Before reaching such a conclusion, it cannot impose a remedy solely on the basis of a letter to the Board or an email to the Board's Clerk or staff.

If Mr. Laurenzana wishes to pursue an enforcement proceeding against one or more respondents, he may file a new complaint, serve it on all respondents, and meet all other

requirements of the Act and Board rules. The new complaint would be treated as a new case and assigned a new docket number. *See, e.g., Whisenhunt v. Moore*, PCB 14-34 (Apr. 17, 2014).

In its February 6, 2025 order in this case, the Board emphasized that its website at pcb.illinois.gov provides information on how to both file a complaint with the Board and serve a copy of the complaint on a respondent or respondents. The information emphasizes that

When you file a formal complaint, you, as the “complainant,” start an enforcement action before the Board. A formal complaint filed by anyone other than the Illinois Attorney General or a State’s Attorney (*e.g.*, one or more individual citizens, an association, a citizens group, or a corporation) is known as a “citizen’s enforcement action.”

By filing a formal complaint, you assume the responsibility to prove to the Board that the individual or entity you are complaining about, called the “respondent,” has committed a violation. Your formal complaint must specifically allege which provision of the following you believe the respondent has violated:

- The Environmental Protection Act (Act)
- The Board’s regulations
- A Board order
- A permit issued by the Illinois Environmental Protection Agency (IEPA)

IEPA is not required to investigate your allegations. The Board cannot provide you with legal advice. If the Board accepts your formal complaint, you will generally need to prepare and file other documents with the Board, as well as formally present your case at a public hearing. Board employees cannot prepare these documents for you or speak on your behalf.

While Mr. Laurenzana’s April 2, 2025 email refers to “legal technicalities and bureaucratic processes,” the Board notes that it has in the recent past accepted and considered numerous citizen complaints, including those in which a person appeared on their own behalf. *E.g., Andrushko v. Egan*, PCB 23-133 (Mar. 21, 2024) (amended noise complaint); *Pratapras v. Horizon Construction Group*, PCB 23-14 (Oct. 20, 2022) (modified water complaint); *Carper v. Topflight Grain Cooperative*, PCB 22-23 (Jan. 6, 2022) (noise complaint); *Boyer v. MRB Development d/b/a Cooper Fire, Renae Eichholz, and Mark Eichholz*, PCB 22-9 (Mar. 3, 2022) (modified noise complaint); *Korman v. Ill. Dept. of Transp.*, PCB 20-62 (June 18, 2020) (water complaint); *Kruk v. New Trier High School*, PCB 20-10 (Nov. 7, 2019) (noise complaint); *Leindl v. Hartsburg Grain Co.*, PCB 19-59 (June 20, 2019) (amended air and noise complaint); *Reed v. Pasillas*, PCB 19-1 (Dec. 20, 2018) (amended noise complaint); *Fiser v. Meador and Henry’s Double K*, PCB 18-84 (Sept. 6, 2018) (noise complaint); *Gill v. CHS Inc. – Carrollton Farmers Elevator*, PCB 16-68 (modified noise complaint); *Miller, et al., v. Sugar Camp Energy, LLC*, PCB 16-55 (noise complaint); *Polchow. v. Village of Rankin*, PCB 15-157 (air and water complaint); *Bruce v. Highland Hills Sanitary District*, PCB 15-139 (Sept. 3, 2015) (amended water complaint); *Mayer v. Lincoln Prairie Water Co., Korte & Luitjohan Contractors, and Milano & Grunloh Engineers, LLC*, PCB 11-22 (Apr. 7, 2011) (modified land complaint);

Schilling, Schilling and Ventura v. Hill, Villa Land Trust, and Prairie Living West, PCB 10-100 (Nov. 4, 2010) (water complaint); Malinowski v. Chicago Transit Auth., PCB 10-36 (Jan. 21, 2010) (noise complaint).

The Board's procedural rules for filing a complaint are not mere "bureaucratic process" but rather provide the necessary framework for all parties to receive the necessary notice of what is being alleged. This is essential.

CONCLUSION

The Board construes Mr. Laurenzana's April 2, 2025 email as a motion for reconsideration of its March 20, 2025 order dismissing his complaint. For the reasons above, the Board denies the motion. If Mr. Laurenzana wishes to pursue an enforcement action against one or more respondents, he may file a new complaint, serve it on all respondents, and meet all other requirements of the Act and Board rules. If Mr. Laurenzana files an amended complaint, the Board at that time will determine whether to accept it.

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 17, 2025, by a vote of 5-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink and is positioned above a horizontal line.

Don A. Brown, Clerk
Illinois Pollution Control Board