

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD MAY 17 2005
OF THE STATE OF ILLINOIS

STATE OF ILLINOIS
Pollution Control Board

MATHER INVESTMENT PROPERTIES,)
L.L.C.,)
Petitioner,)
vs.)
ILLINOIS STATE TRAPSHOOTERS)
ASSOCIATION, INC.,)
Respondent.)

PCB05-29

NOTICE OF FILING AND PROOF OF SERVICE

TO: Dorothy Gunn, Clerk, Illinois Pollution Control Board, 100 West Randolph Street,
James R. Thompson Center, Suite 11-500, Chicago, IL 60601-3218;

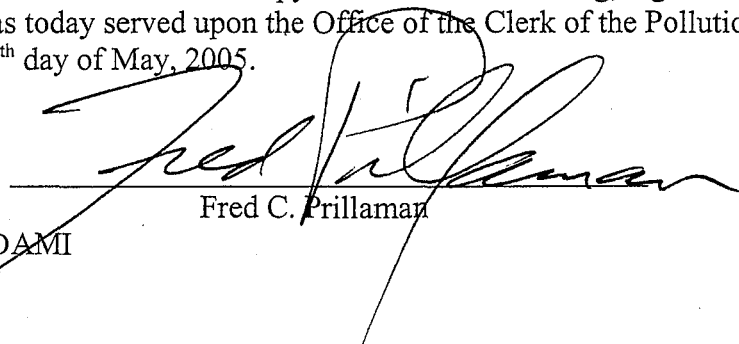
Carol Webb, Hearing Officer, Illinois Pollution Control Board, 1021 North Grand Avenue East,
P.O. Box 19274, Springfield, IL 62794-9274

Charles J. Northrup, Sorling, Northrup, Hanna, Cullen & Cochran, Ltd., Suite 800 Illinois
Building, P.O. Box 5131, Springfield, IL 62705

PLEASE TAKE NOTICE that on May 16, 2005, I filed with the Office of the Clerk of the
Pollution Control Board an original and nine copies of Respondent's Answer by U.S. Mail.

The undersigned hereby certifies that a true and correct copy of this Notice of Filing, together with
a copy of the document described above, were today served upon the hearing officer and counsel of
record of all parties to this cause by enclosing same in envelopes addressed to such attorneys at their
business addresses as disclosed by the pleadings of record herein, with postage fully prepaid, and by
depositing same in the U.S. Mail in Springfield, Illinois on the 16th day of May, 2005.

The undersigned hereby certifies that a true and correct copy of this Notice of Filing, together with
a copy of the document described above, was today served upon the Office of the Clerk of the Pollution
Control Board by Federal Express on the 16th day of May, 2005.


Fred C. Prillaman

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THIS FILING SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

RECEIVED
CLERK'S OFFICE

MAY 17 2005

STATE OF ILLINOIS
Pollution Control Board

MATHER INVESTMENT PROPERTIES,)
L.L.C.,)
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Petitioner,)
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v.) Case No. 05-29
)
ILLINOIS STATE TRAPSHOOTERS)
ASSOCIATION, INC.,)
)
Respondent.)

ANSWER

COMES NOW Respondent, Illinois State Trapshooters Association, Inc., and for its Answer to the Complaint in this proceeding, states as follows:

(1) Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1, and so denies the same.

(2) Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2, and so denies the same.

(3) Respondent admits the allegations of Paragraph 3.

(4) Respondent admits that on or about October 13, 1998, Panther Creek Office Park, L.L.C. and Respondent entered into a contract for the sale of certain real property in Sangamon County, Illinois, which speaks for itself as to its meaning and effect. Respondent denies the allegations of Paragraph 4 except as herein admitted.

(5) Respondent admits that on or about August 24, 1999, the parties entered an amendment to the real estate purchase contract, which speaks for itself as to its meaning and effect. Respondent denies the remaining allegations of Paragraph 5.

(6) Respondent denies that Mather has performed all of its obligations under the contract. In particular, Respondent states that the contract called for the purchaser to clean up all target debris and residue on the property, which Mather has failed to do. Respondent admits that Mather Investment Properties, L.L.C. took title to the property on or about September 28, 2000. Respondent denies each and every remaining allegation of Paragraph 6.

(7) Respondent admits that at certain times a gun club has been operated on the property. Respondent denies the allegations of Paragraph 7 except as herein admitted.

(8) Respondent admits that it owned the property and operated it as an outdoor gun shooting range. Respondent denies the allegations of Paragraph 8 except as herein admitted.

(9) Respondent admits that during the period of time the property was owned and operated by Respondent, lead shot and broken clay targets came to be placed upon the property as a result of the normal activities of an outdoor gun shooting range. Respondent denies the allegations of Paragraph 9 except as herein admitted.

(10) Respondent admits that prior to September 1998, Respondent had been considering selling the property. Respondent denies the allegations of Paragraph 10 except as herein admitted.

(11) Respondent admits that certain portions of the property were tilled from time to time. Respondent denies the allegations of Paragraph 11 except as herein admitted.

(12) Respondent admits that in September 1998 it retained an environmental consultant and that consultant prepared a Phase I environmental assessment which reported that there was no "recognized environmental condition," although the report also stated that the presence of lead shot was certain and identified the presence of target debris. Respondent denies the allegations of Paragraph 12 except as herein admitted.

(13) Respondent admits that at some time a report of the Phase I environmental assessment was received by principals of Panther Creek Office Park, a predecessor in interest to Mather. Respondent denies the allegations of Paragraph 13 except as herein admitted.

(14) Respondent admits that Mather Investment Properties, L.L.C. purchased the property. Respondent denies the allegations of Paragraph 14 except as herein admitted.

(15) Respondent admits that on August 17, 2001, the Illinois Environmental Protection Agency sent a letter to Mather Investment Properties, L.L.C., which speaks for itself as to its meaning and effect. Respondent denies the allegations of Paragraph 15 except as herein admitted.

(16) Respondent admits that Petitioner has from time to time retained environmental consultants to address the property. Respondent denies the allegations of Paragraph 16 except as herein admitted.

(17) Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17, and so denies the same.

(18) Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18, and so denies the same.

(19) Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19, and so denies the same.

(20) Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 20, and so denies the same.

RESPONSE TO COUNT I

(1)-(20) Respondent incorporates by reference as if fully set out here its responses to the allegations of Paragraph 1-20 of the General Allegations.

(21) Respondent admits that the Act contains the language cited.

(22) Respondent denies the allegations of Paragraph 22.

(23) Respondent admits that the Act once contained the language cited, but affirmatively states that the definition of "waste" has been amended and currently is set forth in 415 ILCS 5/3.535.

(24) Respondent denies the allegations of Paragraph 24.

(25) Respondent specifically denies it abandoned waste at the property and denies that it was required to obtain a permit as a waste disposal treatment or storage site; Respondent thus denies that it failed to comply with any requirements of the Environmental Protection Act or regulations or standards promulgated thereunder. Respondent denies the remaining allegations of Paragraph 25.

AFFIRMATIVE DEFENSES

By way of further answer to the Complaint in this proceeding, Respondent affirmatively states as follows:

(1) The Board is without statutory authority to enter a cease and desist order for a wholly past violation.

(2) The Board is without statutory authority to enter a mandatory injunction at the request of a private party.

(3) The Board is without statutory authority to enter an order for reimbursement of cleanup costs, or in the alternative, reimbursement of future cleanup costs.

WHEREFORE, having fully answered, Respondent prays that the Complaint be dismissed, and that it have its costs incurred in this action.

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By: 

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