

FORMAL COMPLAINT

Before the Illinois Pollution Control Board

)
)
 Paul Christian Pratapas,
 An American)
)
 Complainant,)
)
 v.)
)
 Lexington Trace by Lexington Homes)
)
 Respondent)
)

PCB 20 -
 [For Board use only]

1. Your Contact Information

Name: Paul Christian Pratapas
Street Address: 1330 E. Chicago Ave. #110
Naperville
County: DuPage
State: IL
Phone Number: (630) 210 - 1637

2. Name and Address of the Respondent (Alleged Polluter)

Name: Lexington Trace
Street Address: 3S490 Barkley Ave (SWPPP Signage Missing)
Naperville, IL 60563
County: DuPage?
State: Illinois
Phone Number: (630) 919-2700

3. Describe the type of business or activity that you allege is causing or allowing pollution (e.g., manufacturing company, home repair shop) and give the address of the pollution source if different than the address above.

Lexington Homebuilders is building a new neighborhood of multi-family housing without adequate and required BMPs. Complainant was delivering a piano to Lexington Trace when the contractor was observed washing out directly into curbside inlet.

4. List specific sections of the Environmental Protection Act, Board regulations, Board order, or permit 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)

5. **Describe the type of pollution that you allege (e.g., air, odor, noise, water, sewer back-ups, hazardous waste) and the location of the alleged pollution. Be as specific as you reasonably can in describing the alleged pollution.**

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. Sediment and sediment laden water freely allowed to enter the street and inlets. Failure to protect special management area (Wetland?). Contrator handling SWPPP began threatening Complainant after making a SWPPP request and asking if they were "minimizing pollutants from entering the street".

6. **Describe the duration and frequency of the alleged pollution. Be as specific as you reasonably can about when you first noticed the alleged pollution, how frequently it occurs, and whether it is still continuing (include seasons of the year, dates, and times of day if known).**

Photographed and reported to City of Warrenville and ILEPA on or around 4/21/2022 and 4/24/2022.

7. **Describe any bad effects that you believe the alleged pollution has or has had on human health, on plant or animal life, on the environment, on the enjoyment of life or property, or on any lawful business or activity.**

The negative environmental impacts of concrete washout and sediment laden water is widely documented and part of the reason for the NPDES permit program.

Likely fraud of inspection reports and contractor certifications. Fraudulent submission/approval of boiler plate SWPPP with no intent/ability to comply as approved poses immediate risk to Canadian Geese using the area during migration. As well as, to the stormwater system and receiving water(s). Site has special management area I believe to be a wetland.

DuPage Country had to have sheriff deputy go to site during rain and left a patrol car to protect rites of complainant regarding SWPPP requests

8. Describe the relief that you seek from the Board.

1. Find that Respondent has violated their permit
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. Investigation into fraudulent SWPPP inspection reports and contractor certifications
4. Voiding permits for the site until such time as the builder ceases to pollute the surrounding groundwater and surface water and any SWPPP deficiencies related to signage, certifications, inspections, and designated concrete washout area design/implementation are fixed
5. An order stating SWPPP plan(s) for sediment BMPs and concrete washout areas must be implemented as presented and approved unless documented otherwise with standards being found in the Illinois Urban Manual.
6. Prohibit the permitting of additional sites for Lexington Homes until all deficiencies identified above and in pictures are addressed and corrected and a new contractor hired for inspections
7. Board recommendations for criminal charges

9. 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 (note that you need not include any complaints made to the Illinois Environmental Protection Agency or any unit of local government).

No identical or substantially similar cases have been brought to The Board which I am aware of.

10. Paul Christian Pratas
Complainant's Signature

CERTIFICATION

I, PAUL CHRISTIAN PRATAPAS, 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 18th day

of November, 2022

M. Mascitti
Notary Public



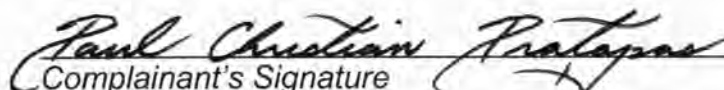
My Commission Expires: 5/21/2023

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: 1330 E Chicago Ave. #110

City/State/Zip: Naperville, IL 60540

Date: 11/18/22

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.

DOCUMENTATION OF SERVICE

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, the undersigned, on oath or affirmation, state that on the date shown below, I served copies of the attached Formal Complaint and Notice of Filing on the respondent at the address listed below by one of the following methods: [*check only one—A, B, C, D, or E*]

A. _____ U.S. Mail or third-party commercial carrier with the recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery. Attached is the delivery confirmation from the U.S. Postal Service or the third-party commercial carrier containing the recipient's signature and showing the date of delivery as _____ [month/date], 20___. [*Attach the signed delivery confirmation showing the date of delivery.*]

B. _____ U.S. Mail or third-party commercial carrier with a recipient's signature recorded or to be recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery. However, the delivery confirmation from the U.S. Postal Service or the third-party commercial carrier containing the recipient's signature is not available to me at this time. On _____ [month/date], 20___, by the time of ___:___ AM/PM, at _____ [*address where you provided the documents to the U.S. Postal Service or the third-party commercial carrier*], copies of the attached Formal Complaint and Notice of Filing were provided to the U.S. Postal Service or the third-party commercial carrier, with the respondent's address appearing on the envelope or package containing these documents, and with proper postage or delivery charge prepaid. [*Within seven days after it becomes available to you, file with the Board's Clerk the delivery confirmation—containing the recipient's signature and showing the date of delivery—and identify the Formal Complaint to which that delivery confirmation corresponds.*]

C. _____ Personal service and I made the personal delivery on _____ [month/date], 20___, by the time of ___:___ AM/PM.

D. _____ Personal service and another person made the personal delivery. Attached is the affidavit of service signed by the other person (or the declaration of service signed by the process server) who made the personal delivery, showing the date of delivery as _____ [month/date], 20___. [Attach the other person's signed affidavit or declaration showing the date of delivery.]

E. X Personal service and I will make the personal delivery. However, the affidavit of service is not available to me currently.

RESPONDENT'S ADDRESS:

Name: Lexington Trace by Lexington Homes

Street: 3SBarkley Ave.

City/State/Zip: Naperville, IL 60563

Paul Christian Pratas
Complainant's Signature

Street: 1330 E. Chicago Ave. #110

City, State, Zip Code: Naperville, IL 60540

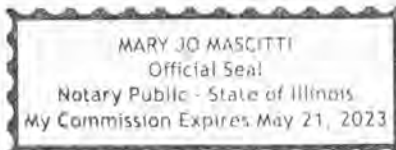
Date: 11/18/22

Subscribed to and sworn before me

this 18th day

of November, 2022

M. Mascitti
Notary Public



My Commission Expires: 5/21/2023



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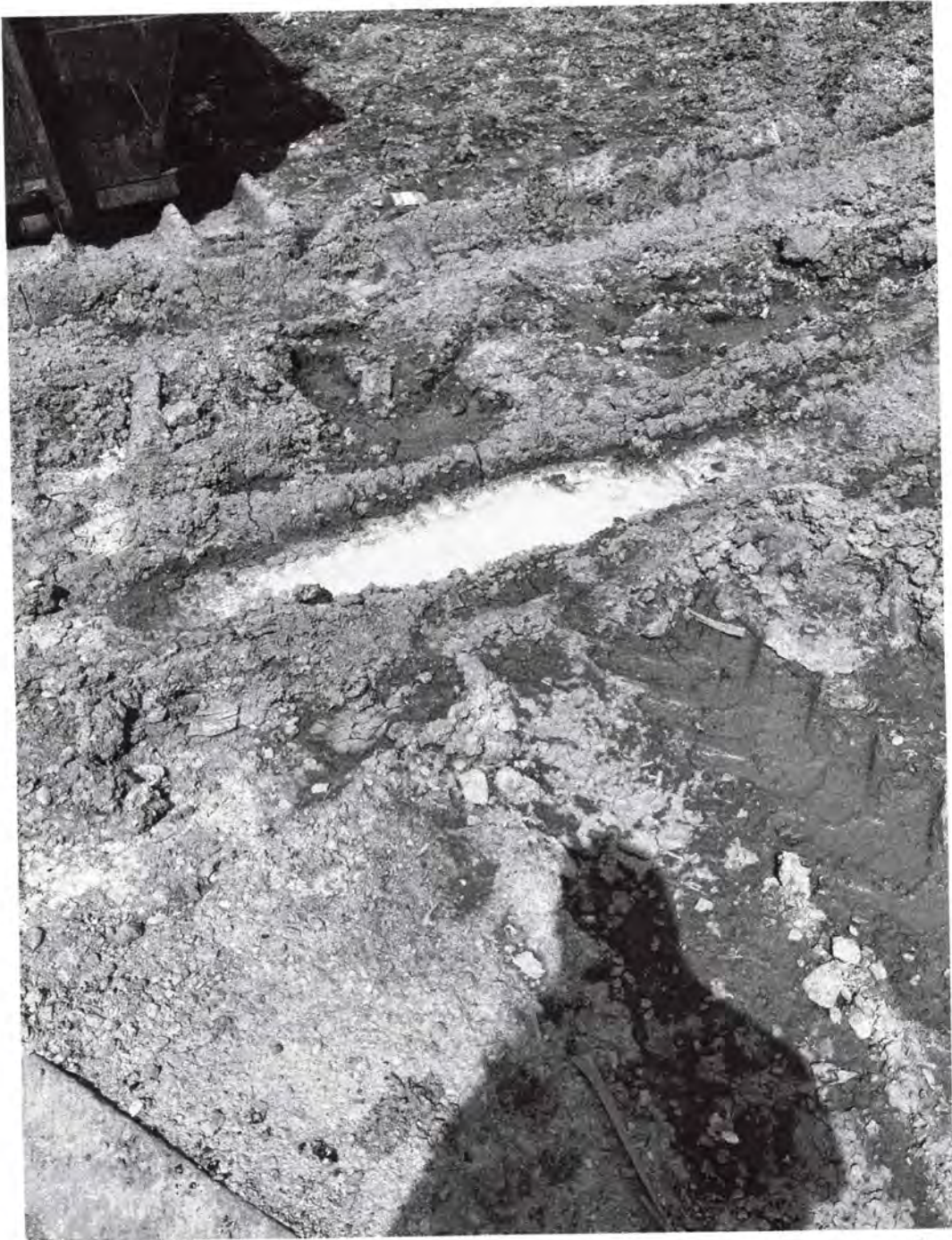
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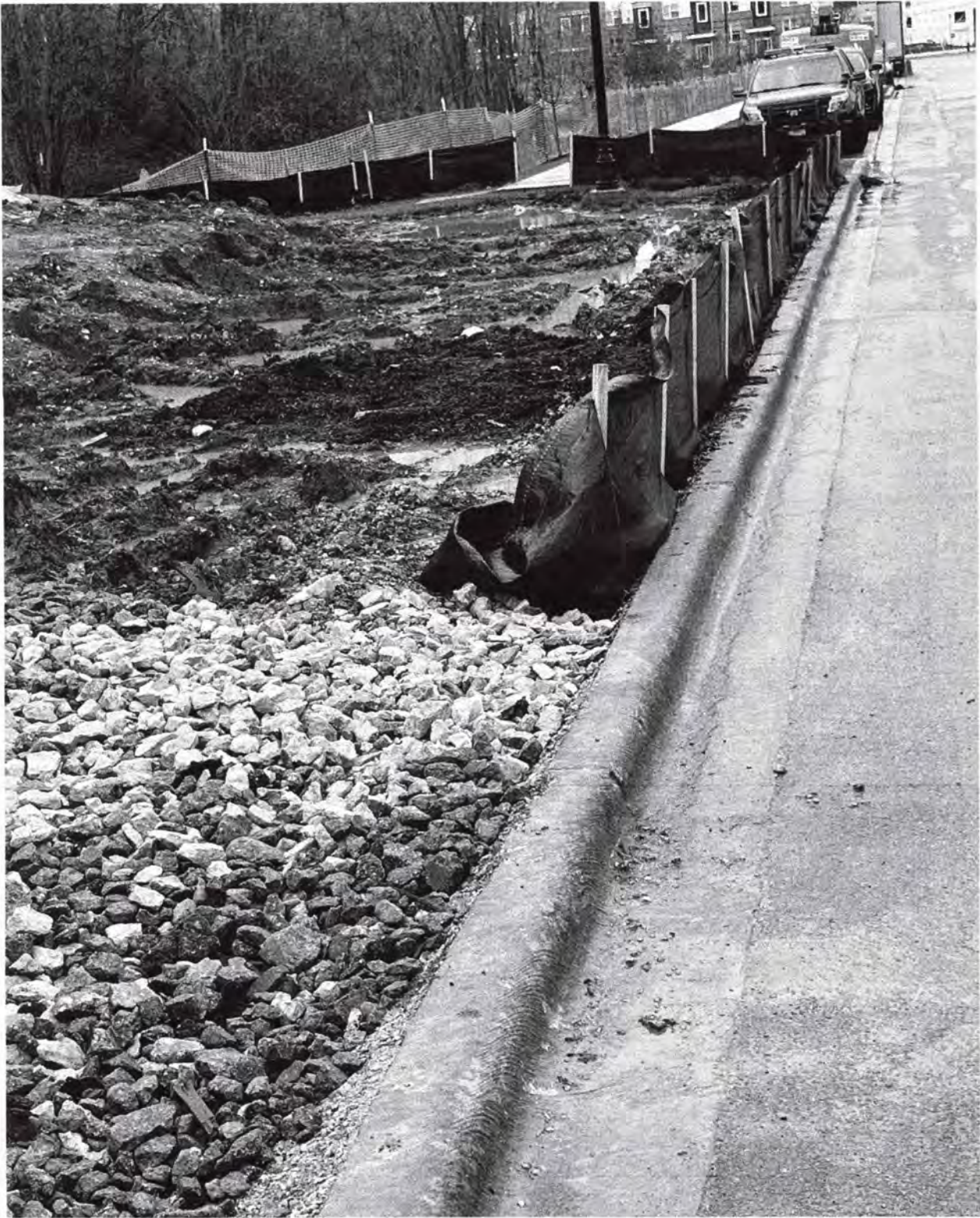
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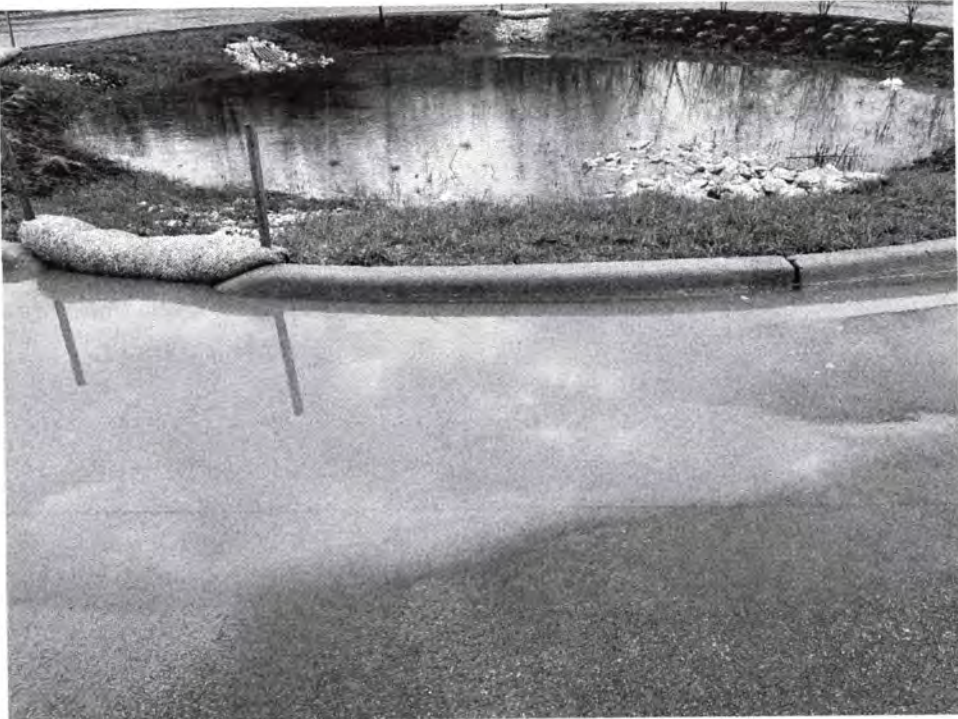


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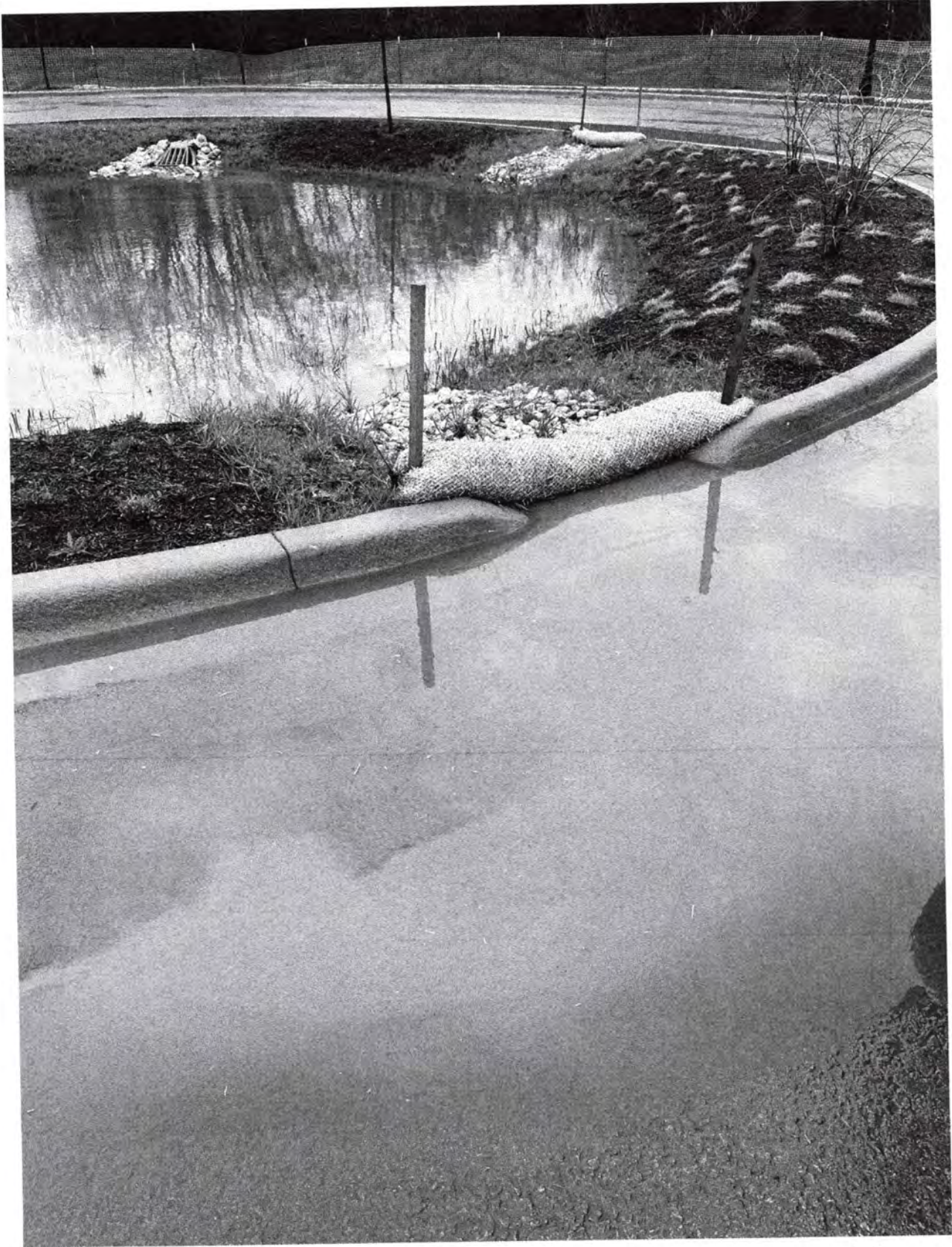


After complainant made report. Notice orange fencing, ramp removed from curb and Sheriff Patrol Car protecting rights of complainant

pep



pep



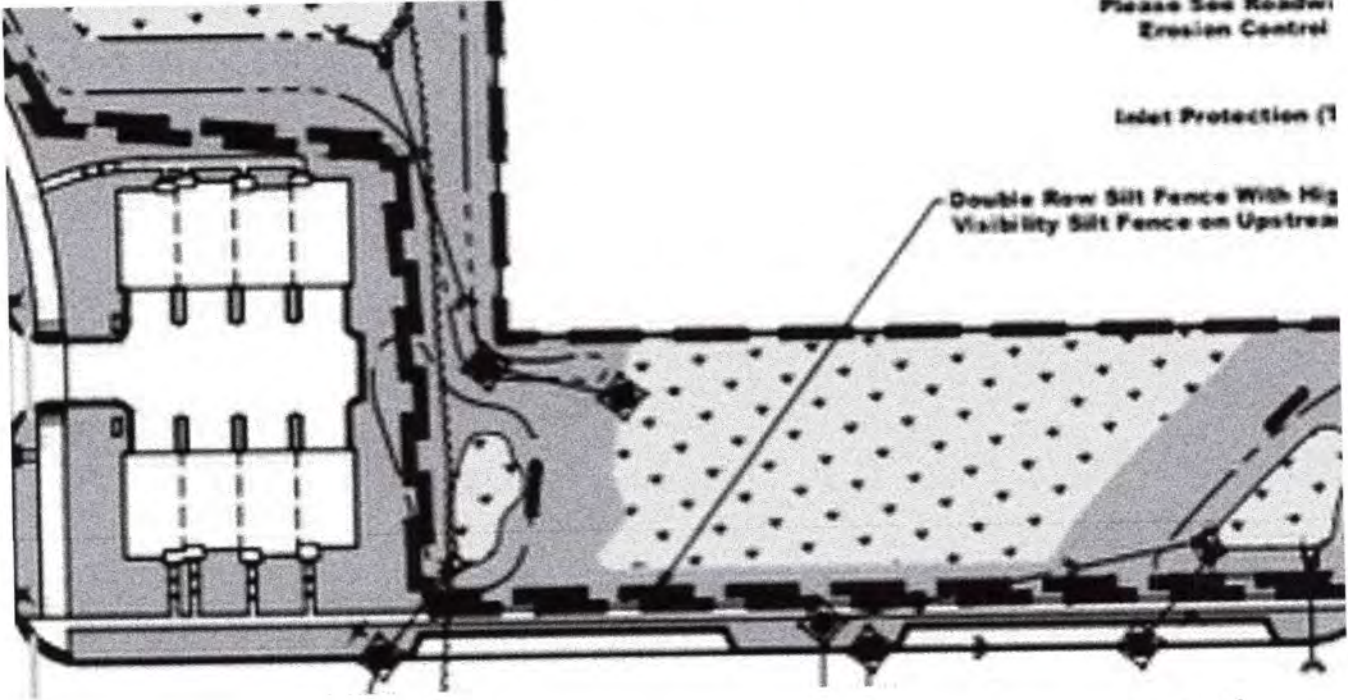
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Please See Roadway
Erosion Control

Inlet Protection (1

Double Row Silt Fence With High
Visibility Silt Fence on Upstream

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