

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

Paul Christian Pratapas, )  
)  
Complainant, )  
)  
v. ) No: **PCB 2023-057**  
)  
Chelsea Manor by M/I Homes, ) (Enforcement – Water)  
)  
Respondent. )

**Notice of Electronic Filing**

PLEASE TAKE NOTICE that I have electronically filed today with the Illinois Pollution Control Board **RESPONDENT CHELSEA MANOR BY M/I HOMES' MOTION THAT THE BOARD DETERMINE THAT THE FORMAL COMPLAINT IS FRIVOLOUS OR, IN THE ALTERNATIVE, TO DISMISS THE COMPLAINT PURSUANT TO 735 ILCS 5/2-619(a)(9) and MEMORANDUM OF LAW IN SUPPORT** of same, copies of which are attached hereto and hereby served upon you.

Respectfully submitted,

By: */s/ David J. Scriven-Young*  
David J. Scriven-Young

Date: December 16, 2022

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**Certificate of Service**

The undersigned, an attorney, hereby certifies that the above Notice and any attached documents were served via email transmission to the Clerk and all other parties listed below at the addresses indicated on December 16, 2022.

Illinois Pollution Control Board  
Don Brown – Clerk of the Board  
100 W. Randolph St., #11-500  
Chicago, IL 60601  
Email: [don.brown@illinois.gov](mailto:don.brown@illinois.gov)

Paul Christian Pratapas  
(Complainant)  
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Respectfully submitted,

By: */s/ David J. Scriven-Young*  
David J. Scriven-Young

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PAUL CHRISTIAN PRATAPAS,	)	
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Complainant,	)	
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v.	)	No. PCB 2023-057
	)	
CHELSEA MANOR BY M/I HOMES,	)	(Enforcement – Water)
	)	
Respondent.	)	

**RESPONDENT CHELSEA MANNOR BY M/I HOMES’ MOTION  
 THAT THE BOARD DETERMINE THAT THE FORMAL COMPLAINT IS  
 FRIVOLOUS OR, IN THE ALTERNATIVE, TO DISMISS THE COMPLAINT  
PURSUANT TO 735 ILCS 5/2-619(a)(9)**

NOW COMES the Respondent, CHELSEA MANOR BY M/I HOMES (“M/I”), by and through its attorneys, Corporate Law Partners, PLLC and Peckar & Abramson, P.C., and for their Motion that the Board Determine that the Formal Complaint (“Complaint”) of the Complainant, PAUL CHRISTIAN PRATAPAS (“Pratapas”), is Frivolous pursuant to 35 Ill. Admin. Code § 103.212(a) or, in the Alternative, to Dismiss the Complaint pursuant to 35 Ill. Admin. Code § 101.500 and 735 ILCS 5/2-619(a)(9), does hereby state as follows:

1. On November 16, 2022, Pratapas filed a Complaint alleging that M/I violated 415 ILCS 5/12(a) and (d) and 35 Ill. Admin. Code § 304.141(b).
2. The Board should determine that the Complaint is frivolous pursuant to 35 Ill. Admin. Code § 103.212(a) because it fails to state a cause of action upon which the Board can grant relief, for four reasons. First, the Complaint fails to allege, as required, the extent, duration, or strength of the offending event. Second, the photographs attached to the Complaint show clear evidence that M/I is using best management practices onsite and, therefore, contradict the material allegations of the Complaint. Third, the Complaint relies solely on legal conclusions that are not

based upon any facts contained in the Complaint. Fourth, the Complaint seeks relief that the Board does not have authority to grant.

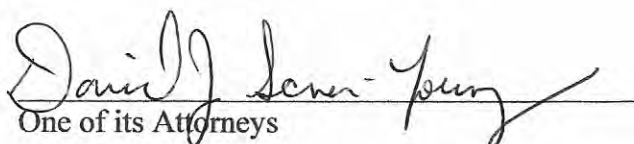
3. Alternatively, this Board should dismiss the Complaint pursuant to 35 Ill. Admin. Code § 101.500 and 735 ILCS 5/2-619(a)(9) because Pratapas's claims are barred by affirmative matter avoiding the legal effect of or defeating the claims. Specifically, the concrete washout is "managed by appropriate control" in compliance with the NPDES permit and negates any possible finding of a violation of 35 ILCS 304.141(b). The undisputed facts, including Pratapas' own photographs attached to the Complaint, clearly evidence that no concrete wash water, slurry sediment, or sediment laden water was discharged on November 13, 2022, or created a water pollution hazard in violation of 415 ILCS 5/12(a) and (d).

4. This motion is supported by M/I's Memorandum of Law and Jason Polakow's Affidavit and exhibits thereto, which are being filed contemporaneously herewith.

WHEREFORE, Respondent CHELSEA MANOR BY M/I HOMES respectfully requests that the Board enter an order (a) determining that Complainant Paul Christian Pratapas' Formal Complaint is frivolous, or (b) in the alternative, dismissing the Formal Complaint with prejudice pursuant to 35 Ill. Admin. Code § 101.500 and 735 ILCS 5/2-619(a)(9), and (c) providing any other relief that this Board deems just.

Respectfully submitted,

CHELSEA MANOR BY M/I HOMES

  
One of its Attorneys

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Attorneys for Respondent Chelsea Manor by M/I Homes

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PAUL CHRISTIAN PRATAPAS,	)	
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Complainant,	)	
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v.	)	No. PCB 2023-057
	)	
CHELSEA MANOR BY M/I HOMES,	)	(Enforcement – Water)
	)	
Respondent.	)	

**RESPONDENT CHELSEA MANOR BY M/I HOMES' MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION THAT THE BOARD DETERMINE THAT THE FORMAL COMPLAINT IS FRIVOLOUS OR, IN THE ALTERNATIVE, TO DISMISS THE COMPLAINT PURSUANT TO 735 ILCS 5/2-619(a)(9)**

**INTRODUCTION**

Complainant Paul Christian Pratapas (“Pratapas”) is a serial filer of complaints before this Board. Since July 2022, Pratapas has filed twenty similar complaints against developers and municipal entities alleging water pollution violations at construction sites near his home in Naperville. Two of those complaints were filed against entities associated with developments built by M/I Homes (including the respondent in this action, Chelsea Manor by M/I Homes (“M/I”). (See PCB Case Nos. 2023-057 and 2023-075.) Pratapas’ *modus operandi* appears to be that he goes to construction sites on rainy days, takes a couple of photographs, and then files a template complaint before this Board against the developer and (sometimes) the municipal entities that own the sites. Bizarrely, each of the twenty complaints (including a recent complaint filed against Naperville Mayor Steve Chirico in PCB Case No. 2023-077) also allege that the respondents “likely” committed “fraud” associated with “inspection reports and contractor certifications” as

well as “[f]raudulent submission/approval of boiler plate [sic]<sup>1</sup> SWPPP with no intent/ability to comply . . . .”

In this case, Pratapas has filed one of his boilerplate complaints against M/I, which is a developer of a new townhome community in Aurora, Illinois. The Formal Complaint (“Complaint”), which is attached hereto as Exhibit A, alleges (as most of Pratapas’ complaints do) that, on November 13, 2022 (“a Sunday afternoon”), he observed a water pollution violation, *i.e.*, “toxic concrete washout and slurry” not being managed on the site. Pratapas attaches several photographs to the Complaint; however, those photographs actually show that M/I was using best management practices onsite and that, consequently, M/I did not commit any water pollution violations. Therefore, the Board should determine that the Complaint is frivolous, or in the alternative, dismiss the Complaint with prejudice pursuant to 35 Ill. Admin. Code § 101.500 and 735 ILCS 5/2-619(a)(9).

### **ARGUMENT**

#### **I. The Complaint Should Be Determined to Be Frivolous Pursuant to 35 Ill. Admin. Code § 103.212(a)**

##### **A. Legal Standard**

The Illinois Environmental Protection Act, 415 ILCS 5/1 *et seq.* (the “Act”) authorizes citizens to bring enforcement actions before the Board, alleging violations of the Act or Board regulations. Section 31(d) of the Act provides:

Any person may file with the Board a complaint, meeting the requirements of subsection (c) of this Section, against any person allegedly violating this Act or any rule or regulation thereunder . . . . Unless the Board determines that such complaint is duplicative or *frivolous*, it shall schedule a hearing. . . .

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<sup>1</sup> It is ironic that Pratapas would accuse respondents of preparing boilerplate plans, given the fact that Pratapas has filed twenty boilerplate complaints before this Board. Moreover, since Pratapas apparently trespasses on construction sites in order to obtain the photographs for his complaints, it is ironic that he would accuse respondents of criminal misconduct.

415 ILCS 5/31(d) (emphasis supplied). Section 31(c), referred to in the above-quoted passage, in turn states that the complaint “shall specify the provision of the Act or the rule or regulation ... under which such person is said to be in violation, and a statement of the manner in, and the extent to which such person is said to violate the Act or such rule or regulation ....” 415 ILCS 5/31(c). The Board’s procedural rules require that a complaint must include the “dates, location, events, nature, extent, duration, and strength of discharges or emissions and consequences alleged to constitute violations” and a “concise statement of the relief that the complainant seeks.” 35 Ill. Adm. Code 103.204(c). Thus, the Act and the Board’s procedural rules “provide for specificity in pleadings”. *Rocke v. PCB*, 78 Ill. App. 3d 476, 481 (1st Dist. 1979).

In assessing the adequacy of pleadings in a complaint, the Board has accordingly stated that “Illinois is a fact-pleading state which requires the pleader to set out the ultimate facts which support his cause of action.” *People v. Blick’s Constr. Co.*, PCB No. 13-43, 2013 Ill. ENV LEXIS 151 \*18 (May 16, 2013). “[L]egal conclusions unsupported by allegations of specific facts are insufficient.” *La Salle Nat’l Trust, N.A. v. Vill. of Mettawa*, 249 Ill. App. 3d 550, 557 (2d Dist. 1993). *See also Foxfield Realty v. Kubala*, 287 Ill. App. 3d 519, 522 (2d Dist. 1997) (“a motion to dismiss does not admit conclusions of law or of fact that are not supported by allegations of specific facts which form the basis for such conclusions”). Exhibits attached to pleadings “are considered part of the pleadings, and allegations in the pleadings which conflict with facts disclosed in the exhibits are not admitted as true; rather, the exhibits control. *Foxfield Realty*, 287 Ill. App. 3d at 522.

Within 30 days after being served with a complaint, a respondent may file a motion with the Board to dismiss the complaint on the grounds that the complaint is frivolous or duplicative. 35 Ill. Adm. Code 103.212(b). “Frivolous” means a 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. Admin. Code 101.202. When ruling on a motion to dismiss, the Board takes all well-pled allegations as true and draws all inferences from them in favor of the non-movant. *Maracic v. TNT Logistics N. Am. Inc.*, PCB No. 05-212, 2007 Ill. ENV LEXIS 106, \*6 (Mar. 15, 2007). Dismissal is proper only if it is clear that no set of facts could be proven that would entitle complainant to relief. *Id.* To determine whether a cause of action has been stated, the entire pleading must be considered. *Mahomet Valley Water Auth. v. Clinton Landfill, Inc.*, PCB No. 13-22, 2013 Ill. ENV LEXIS 283, \*55 (Sept. 19, 2013).

**B. Respondent's Complaint Must be Determined to be Frivolous Because It Fails to State a Cause of Action Upon Which the Board Can Grant Relief**

With vague statements and conclusions unsupported by well-pled factual allegations, Pratapas purports to allege that M/I failed to manage or control concrete washout water in violation of Section 12 (a) and (d) of the Act and 35 Ill. Admin. Code 304.141(b). Section 12 of the Act provides in relevant part:

No person shall:

(a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, ... or so as to violate regulations or standards adopted by the Pollution Control Board . . . .

...

(d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

415 ILCS 5/12(a) & (d). The regulation set forth in 35 Ill. Admin. Code 304.141(b) states:

No person may discharge any pollutant subject to, or which contributes or threatens to cause a violation of, any applicable federal or state water quality standard, effluent standard, guideline or other limitation, promulgated pursuant to the CWA [Clean Water Act] or the Act, unless limitation for such a pollutant has been set forth in an applicable NPDES Permit.

Pratapas is required by the Board's procedural rules to include in the Complaint the "dates, location, events, nature, extent, duration, and strength of discharges or emissions and consequences alleged to constitute violations." 35 Ill. Admin. Code 103.204(c). While Pratapas has alleged a date ("November 13, 2022 on a Sunday afternoon") and a location (Commons Drive, Aurora, Illinois), he does not adequately plead the other required contents of the Complaint. The Complaint is completely devoid of any allegations – factual or otherwise – as to the required "extent, duration or strength" of the offending event. Instead, the Complaint makes legal conclusions, unsupported by any specific facts, regarding "[t]oxic concrete washout water and slurry prohibited from making contact with soil and migrating to surface waters or into the ground water not managed" and "sediment and sediment laden water freely allowed to enter the street and inlet." Moreover, the photographs attached to the Complaint contradict the allegation of non-management and instead show clear evidence of a controlled concrete washout area in a containment area surrounded by silt fence and curb, with no inlets in the area, and no free flowing sediment or sediment laden water. These photographs are considered part of the pleadings and control over the conflicting allegations in the Complaint. *Foxfield Realty v. Kubala*, 287 Ill. App. 3d 519, 522 (2d Dist. 1997).

Pratapas' statements as to the "consequences" or "bad effects" of the alleged violations are also general, legal conclusions devoid of well-pled factual support. Pratapas first states that "[t]he negative environmental impacts of concrete washout and sediment laden water is widely documented and part of the reason for the NPDES permit program." This conclusion provides no specific facts in support of Pratapas' claims. Pratapas continues: "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.” No facts in the Complaint support any claim of fraud (nor would such a claim be within the Board’s jurisdiction). The conclusion that there is “immediate risk to Canadian Geese” and the statement that Canadian Geese were “using the area during migration” does not factually support Pratapas’ claims as there is no allegation that geese were in contact with any concrete washout water or harmed in any way. Pratapas next states: “As well as, to the stormwater system and receiving water(s)”, which is unintelligible and completely vague and, again, fails to meet the fact-pleading standard. Finally, Pratapas summarily asserts that there are “[n]eighborhood pets in adjacent occupied area. Farmer next to site was harvesting corn.” These conclusions – like the ones discussed above – are not well-pled allegations, and the Board need not take them as true nor draw any inferences from them. *La Salle Nat’l Trust, N.A. v. Vill. of Mettawa*, 249 Ill. App. 3d 550, 557 (2d Dist. 1993). Indeed, the Board may strike such conclusions entirely. *Tarkowski v. Belli*, PCB No. 76-55, 1976 Ill. ENV LEXIS 621, \*1-2 (Apr. 8, 1976) (striking legal conclusions on its own motion).

In addition, Pratapas’ requests for relief #3 (“Investigation into fraudulent SWPP inspection reports and contractor certifications”) and #6 (“Guarantee access to the SWPPP book for public review”) must be stricken as frivolous, since the requests seek relief that the Board does not have the authority to grant. 35 Ill. Adm. Code 101.202; *United City of Yorkville v. Hamman Farms*, PCB No. 08-96, 2008 Ill. ENV LEXIS 352, \*68 (Oct. 16, 2008). As an administrative agency, the Board is a creature of statute, and therefore has only the authority given to it by its enabling act. *Id.* at \*66. The Board cannot grant prayers for relief absent explicit statutory authority. *Id.* at \*67. *See also Vill. of Montgomery v. Aurora Sanitary Dist.*, PCB No. 79-269, PCB No. 79-269, 1980 Ill. ENV LEXIS 460, \*1 (Mar. 20, 1980) (striking portion of prayers for relief requesting that the Board do things which are beyond its statutory authority); *Tarkowski v.*

*Belli*, PCB No. 76-55, 1976 Ill. ENV LEXIS 621, \*1-2 (Apr. 08, 1976) (striking portion of prayers for relief that are not within its jurisdiction or scope of authority under the Act).

Given the above, Pratapas has failed to comply with 35 Ill. Admin. Code 103.204(c) by failing to adequately plead facts in support of any cause of action against M/I. Therefore, the Board should determine that the Complaint is frivolous.

**II. In the Alternative, the Complaint Should Be Dismissed Pursuant to 735 ILCS 5/2-619(a)(9)**

**A. Legal Standard**

Respondent moves also, in the alternative, to dismiss the Complaint pursuant to 735 ILCS 5/2-619(a)(9) on the grounds that “the claim asserted against the defendant is barred by other affirmative matter avoiding the legal effect of or defeating the claims.” Pursuant to 35 Ill. Admin. Code 101.500, the Pollution Control Board “may entertain any motion the parties wish to file that is permissible under the Act or other applicable law, this Part, or the Code of Civil Procedure.” Thus, the Board may entertain a motion to dismiss pursuant to 735 ILCS 5/2-619(a)(9). *See People v. Shell Oil Co.*, PCB No. 97-30, 1998 Ill. ENV LEXIS 480, \*6 (Sept. 17, 1998) (granting motion to dismiss based upon affirmative matters contained outside the complaint).

The phrase “affirmative matter” encompasses “any defense other than a negation of the essential allegations of the plaintiff’s cause of action.” *Omega Demolition Corp. v. Ill. State Toll Highway Auth.*, 2022 IL App (1st) 210158, ¶ 45. The purpose of a section 2-619 motion to dismiss is to dispose of issues of law and easily proved issues of fact at the outset of litigation. *Jackson v. Kane Cty.*, 2021 IL App (2d) 210153, ¶ 10. Because a section 2-619 dismissal resembles the grant of a motion for summary judgment, the Board must determine whether a genuine issue of material

fact precludes the dismissal. *See id.* at ¶ 11. Once the respondent satisfies its initial burden of going forward on a section 2-619(a)(9) motion, the burden shifts to the complainant to establish that the defense is unfounded or that it requires the resolution of an essential element of material fact. *Id.* at ¶

In a Section 2-619 motion to dismiss, while the sufficiency of the complaint is admitted, the “facts asserted which are not of record in the proceeding shall be supported by affidavit.” *See* 35 Ill. Admin. Code 101.242(a); 735 ILCS 5/2-619 (a)(9).

**B. The Claim Asserted Against M/I is Barred by Other Affirmative Matter Avoiding the Legal Effect of or Defeating the Claim**

Assuming for the sake of argument that the Complaint adequately alleges a cause of action for violations of Section 12 of the Act and 35 Ill. Admin. Code 304.141(b), those claims fail as a matter of law and are defeated by the undisputed “other affirmative matters” discussed below.

The alleged violating actions are that M/I has “not managed” concrete washout water and slurry “prohibited from making contact with soil and migrating to surface waters or into the ground water” and that Respondent has “freely allowed” sediment and sediment laden water to enter the street and inlets. The undisputed facts indicate just the opposite.

**1. The undisputed facts show no violation of 35 Ill. Admin. Code 304.141(b)**

The regulation cited in the Complaint, 35 Ill. Admin. Code 304.141(b), states in relevant part:

No person may discharge any pollutant subject to, or which contributes or threatens to cause a violation of, any applicable federal or state water quality standard, effluent standard, guideline or other limitation, promulgated pursuant to the CWA or the Act, *unless* limitation for such a pollutant has been set forth in an applicable NPDES Permit. (emphasis added).

In compliance with the Act and applicable regulations, M/I has a General Permit to Discharge Storm Water Associated with Construction Activities, NPDES Permit No: ILR10ZBGE, dated April 1, 2022, covering the Chelsea Manor development project (hereinafter, the “NPDES Permit”). (A copy of the NPDES Permit is attached as Ex. 1 to J. Polakow Aff., which is attached hereto as Ex. B. *See also* J. Polakow Aff., ¶ 3.) The NPDES Permit (Part III, A.3.) states: “The following non-storm water discharges are prohibited by this permit: concrete and wastewater from washout of concrete (unless managed by an appropriate control) . . .” Thus, if there are appropriate controls of non-storm water discharge from concrete washout facilities, such discharges are *not* prohibited by the NPDES Permit and do not constitute a violation of Section 304.141(b) as alleged. *See* 415 ILCS 5/12(f) (“Compliance with the terms and conditions of any permit issued under Section 39(b) of this Act shall be deemed compliance with this subsection except that it shall not be deemed compliance with any standard or effluent limitation imposed for a toxic pollutant injurious to human health”).

The undisputed facts – including the photographs attached to the Complaint by Pratapas – clearly establish that M/I has implemented and maintained appropriate controls for soil erosion and the management of concrete washout. These controls are set forth in its Stormwater Pollution Prevention Plan (“SWPPP”) for the Chelsea Manor project. (A copy of the SWPPP is attached to the J. Polakow Aff. as Ex. 2. *See also* J. Polakow Aff., ¶ 4.) According to Jason Polakow, M/I’s executive overseeing the Chelsea Manor project (J. Polakow Aff. at ¶ 2), the following types of controls are in place at the Chelsea Manor site:

At the Chelsea Manor project, after concrete is poured, the chutes of the ready-mix concrete trucks and hoppers of concrete pump trucks must be washed out to remove the remaining concrete before it hardens. The best management practice objectives of the SWPPP for concrete washout areas are to collect and retain all of the concrete washout water and solids in leak proof containers, which is a metal roll-off bin at the

Chelsea Manor site. The metal roll-off bin is designed to securely contain wash water and solids and is portable and reusable. Roll-off providers offer recycling services for the project, such as, picking up the roll-off bins after the wash water has evaporated or has been vacuumed off and the solids have hardened, replacing them with empty washout bins, and delivering the hardened concrete to a recycler rather than a landfill. The concrete washout facility is in a location that provides convenient access to concrete trucks near the area where concrete is being poured. The concrete washout container is a metal roll-off bin placed on a mix of three (3)-inch stone and gravel. The construction staging area, which includes the concrete washout container, is demarcated by silt-fence. The containment area is not located within fifty (50) feet of storm drains, open ditches, or waterbodies. The washout basin is located approximately sixty-two (62) feet away from the nearest storm inlet and two hundred and seventy-five (275) feet away from the detention basin at the adjacent Gramercy Square property.

(*Id.* at ¶¶ 6-7). Mr. Polakow has further testified and affirmed that:

The concrete washout container is inspected daily by M/I Homes Construction Managers and during the weekly stormwater pollution prevention program (SWPPP) inspections conducted by the M/I Homes third-party inspector, Gary R. Weber and Associates (GRWA). GRWA also inspects the site and containers after any rainfall event greater than a half-inch (0.50”) of rain. All inspections check for leaks, identify potential damage to the containers from construction activities, and determine whether the washout container has been filled to over seventy-five (75) percent capacity. When the container is filled to over seventy-five (75) percent of its capacity, the wash water is vacuumed off or allowed to evaporate to avoid overflows. Then when the remaining solids have hardened, they are removed and recycled. Damages to the container are repaired promptly. Before heavy rains, the container’s liquid levels are lowered, or the container is covered to avoid an overflow during a rainstorm.

(*Id.* at ¶ 6).

Thus, the concrete washout is “managed by appropriate control” in compliance with the NPDES permit and negates any possible finding of a violation of 35 ILCS 304.141(b). Moreover, as set forth below, the undisputed facts establish that no concrete washout water, slurry, sediment

or sediment laden water are discharged to the environment such to create water pollution in violation of the Act. Therefore, Pratapas' claims fail and must be dismissed.

**2. The undisputed facts show no violation of Section 12(a) or (d) of the Act**

In order to prevail on its claim that M/I violated Section 12(a) and (d) of the Act, Pratapas must be able to establish that M/I disregarded the above controls allowing an alleged discharge on November 13, 2022 to "cause or tend to cause water pollution in Illinois" or to be deposited on land "in such place and manner so as to create a water pollution hazard."<sup>2</sup> The undisputed facts, which are supported by, among other things, Pratapas' own photographs, establish that no such outcome occurred or had the potential to occur.

First, based on its inspection of the site, the Kane-DuPage Soil Water Conservation District ("KDSWCD"), the local regulatory agency that provides information, consultation, and reviews for Soil Erosion and Sediment Control in partnership with the U.S. Army Corps of Engineers, the Illinois Environmental Protection Agency, and through a memorandum of understanding with the City of Aurora, concluded that "[o]verall – sediment is contained onsite" as required. (A copy of the Inspection Report is attached to the J. Polakow Aff.as Ex. 3. *See also* J. Polakow Aff., ¶ 5.) The NPDES Permit requires containment of sediments on-site, which the KDSWCD acknowledged had been established at the Chelsea Manor project. (NPDES Permit, Part III, A.3.) Next, Pratapas' photographs clearly contradict his own allegations, which is not surprising given the boilerplate nature of his numerous pleadings before the Board. The photographs show the best management practices concerning the control of water, slurry, sediment, and silt were implemented at the Site and were working as designed on November 13, 2022. (J. Polakow Aff., ¶¶ 8-15.) The

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<sup>2</sup> Pratapas' has failed to allege any facts to support his conclusion that any washout water or slurry are "toxic."



photographs do not show any entry of concrete washwater, sediment or sediment laden water into inlets or water bodies or concrete washwater or slurry making contact with bare soil, surface waters or into groundwater. (*Id.* at ¶ 15.)<sup>3</sup> Rather, the photographs show that this did not occur, as well as the control measures that prevent such occurrence. (*Id.* at ¶¶ 8-15.) The photographs completely fail to show any negative impacts caused by the site to geese, pets, or adjacent properties. (*Id.*)

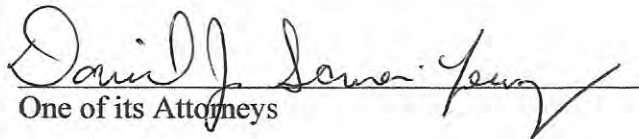
The above undisputed other affirmative matters require dismissal of the Complaint pursuant to 735 ILCS 5/2-619 (a)(9).

CONCLUSION

For these reasons, M/I's Motion that the Board Determine that the Formal Complaint is Frivolous or, in the Alternative, to Dismiss the Complaint Pursuant to 735 ILCS 5/2-619(a)(9) should be granted.

Respectfully submitted,

CHELSEA MANOR BY M/I HOMES

  
One of its Attorneys

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Attorneys for Respondent Chelsea Manor by M/I Homes

<sup>3</sup> In fact, inlets and water bodies are quite distant from the concrete washout area. (J. Polakow Aff., ¶¶ 7.)

**FORMAL COMPLAINT**

**Before the Illinois Pollution Control Board**

Paul Christian Pratapas )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 Chelsea Manor by M/I 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: Chelsea Manor by M/I Homes  
Street Address: Commons Drive (Required Signage Missing)  
Aurora, IL 60504  
County: DuPage  
State: Illinois  
Phone Number: ( 630 ) 426 - 1370

**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.**

M/I Homebuilders is building a new neighborhood of multifamily housing without adequate and required BMPs

**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. Many geese photographed immediately adjacent.

- 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 ILEPA November 13, 2022 on a Sunday afternoon.

- 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). Neighborhood pets in adjacent occupied areas. Farmer next to site was harvesting corn.

- 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 the permit 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, material storage and designated concrete washout area design/implementation are fixed
5. An order stating SWPPP plan(s) for phasing and concrete washout areas must be implemented as presented and approved unless documented otherwise with standards being found in the Illinois Urban Manual.
6. Guarantee access to the SWPPP book for public review

- 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. I am representing myself as an individual.

11. Paul Christian Pratapas  
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 Pratapas  
Complainant's Signature

Subscribed to and sworn before me

this 15<sup>th</sup> day

of November, 2022

M. J. Mascitti  
Notary Public

My Commission Expires: 5/21/2023

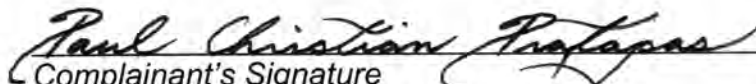


## **NOTICE OF FILING**

**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:** 11.15.2022

## **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](http://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](http://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:** Chelsea Manor by M/I Homes  
**Street:** Commons Drive  
**City/State/Zip:** Aurora, IL 60504

Paul Christian Protapas  
Complainant's Signature

**Street:** 1330 E. Chicago Ave. #110  
**City, State, Zip Code:** Naperville, IL 60540  
**Date:** 11.15.2022

Subscribed to and sworn before me

this 15<sup>th</sup> day  
of November, 2022

M. Mascitti  
Notary Public

My Commission Expires: 5/21/2023





-A-



-B-



-C-



-D-



-E-



-F-



-G-

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PAUL CHRISTIAN PRATAPAS,	)	
	)	
Complainant,	)	
	)	
v.	)	No. PCB 2023-057
	)	
CHELSEA MANOR BY M/I HOMES,	)	(Enforcement – Water)
	)	
Respondent.	)	

**AFFIDAVIT OF JASON A. POLAKOW, P.E.**

I, Jason A. Polakow, P.E., a resident of Illinois and being over 18 years of age, declares under penalty of perjury that the following is true and correct:

1. I am currently employed as the Director of Land Development at M/I Homes of Chicago, LLC (“M/I Homes”).

2. I am the executive at M/I Homes overseeing the Chelsea Manor development southeast of Commons Drive and Irving Road, Aurora, Illinois.

3. In connection with the Chelsea Manor development, M/I Homes has a General Permit to Discharge Storm Water Associated with Construction Activities (“General Permit”), issued by the Illinois Environmental Protection Agency (IEPA), a true and correct copy of which is attached as Exhibit 1 to this Affidavit.

4. In accordance with Part IV of the General Permit, M/I Homes has a Stormwater Pollution Prevention Plan (“SWPPP”), which includes specifications for erosion and sediment controls, including controls related to concrete washout operations. A true and correct copy of the SWPPP for the Chelsea Manor development is attached as Exhibit 2 to this Affidavit.

5. On June 16, 2022, the Kane-DuPage Soil Water Conservation District (KDSWCD), the local regulatory agency that provides information, consultation, and reviews for Soil Erosion and Sediment Control (SESC) in partnership with the Army Corps of Engineers (USACE), the

**EXHIBIT  
- B -**

IEPA, and through a memorandum of understanding (MOU) with Aurora, conducted an inspection of the Chelsea Manor development and provided M/I Homes with a copy of the Inspection Report, which is attached to this Affidavit as Exhibit 3. The Inspection Report states that “Overall – Sediment is contained onsite Yes.” Concrete work had not yet begun at the time of this site inspection, so the Inspection Report states “N/A” for concrete washout.

6. At the Chelsea Manor project, after concrete is poured, the chutes of the ready-mix concrete trucks and hoppers of concrete pump trucks must be washed out to remove the remaining concrete before it hardens. The best management practice objectives of the SWPPP for the concrete washout area is to collect and retain all of the concrete washout water and solids in leak proof containers, which is a metal roll-off bin at the Chelsea Manor site. The metal roll-off bin is designed to securely contain wash water and solids and is portable and reusable. Roll-off providers offer recycling services for the project, such as, picking up the roll-off bins after the wash water has evaporated or has been vacuumed off and the solids have hardened, replacing them with empty washout bins, and delivering the hardened concrete to a recycler rather than a landfill. The concrete washout facility is in a location that provides convenient access to concrete trucks near the area where concrete is being poured. The concrete washout container is a metal roll-off bin placed on a mix of three (3)-inch stone and gravel. The construction staging area, which includes the concrete washout container, is demarcated by silt-fence. The washout containment area is not located within fifty (50) feet of storm drains, open ditches, or waterbodies. The containers are inspected daily by M/I Homes Construction Managers and during the weekly stormwater pollution prevention program (SWPPP) inspections conducted by the M/I Homes third -party inspector, Gary R. Weber and Associates (GRWA). GRWA also inspects the site and containers after any rainfall event greater than a half-inch (0.50”) of rain. All inspections check for leaks, identify potential damage



to the containers from construction activities, and determine whether the washout container has been filled to over seventy-five (75) percent capacity. When the container is filled to over seventy-five (75) percent of its capacity, the wash water is vacuumed off or allowed to evaporate to avoid overflows. Then when the remaining solids have hardened, they are removed and recycled. Damages to the container are repaired promptly. Before heavy rains, the container's liquid levels are lowered, or the container is covered to avoid an overflow during a rainstorm.

7. The washout area is located approximately sixty-two (62) feet away from the nearest storm inlet. See, distance map attached as Exhibit 4 to this Affidavit. The washout area is located approximately two hundred and seventy-five (275) feet away from the detention basin at the adjacent Gramercy Square property. See, distance map attached as Exhibit 5 to this Affidavit.

8. Photograph A attached to the Complaint<sup>1</sup> shows a refuse container located behind a curb, with the ground cut eight (8)-inches below top of curb to help prevent runoff onto the street. This soil grading is part of the erosion controls set forth in the SWPPP.

9. Photograph B shows the construction staging area with the concrete washout basin resting on a bed of 3-inch stone, encircled by silt fence, and behind a curb with the 8-inch soil cut, which are part of the washout controls set forth in the SWPPP.

10. Photograph C shows another view of the construction staging area and concrete washout basin and the containment controls as described in paragraph 9 above.

11. Photograph D shows some hardened concrete sitting on the 3-inch stone bed and not on the adjacent clay soils and contained behind a row of silt fence.

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<sup>1</sup> The Complaint in this case is attached as Exhibit A to Respondent Chelsea Manor By M/I Homes' Memorandum of Law in Support of its Motion That the Board Determine That the Formal Complaint is Frivolous or, in the Alternative, to Dismiss the Complaint Pursuant to 735 ILCS 5/2-619(a)(9). For the Board's convenience and for easy identification, the photographs in the copy of the Complaint attached to the Memorandum have been labeled "A" through "G".

12. Photograph E shows a port-a-potty standing upright on a hard surface, away from storm inlets, and near construction activity making it accessible for the workers building the townhomes.

13. Photograph F shows materials necessary to build the townhomes contained by a curb and soil grading directly adjacent to the building under construction. The reddish colored material at the inlet shown on the photograph is part of the filter basket system installed throughout the site used as storm drain inlet protection to trap and limit sediment and silt from entering the storm drain inlets and leaving the site.

14. Photograph G shows the well-established Gramercy Square property basin with geese grazing in the foreground and the Chelsea Manor construction site located in the background behind a row of silt fence, separating the two sites and containing any runoff from leaving the construction site.

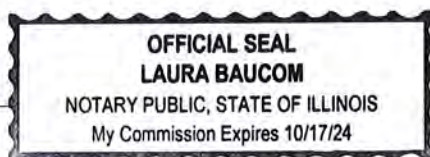
15. None of the Photographs attached to the Complaint show any uncontrolled concrete wash water, slurry, sediment or sediment laden water; rather they show implementation of the best management practices set forth in the SWPPP for control of such media.

16. It should be noted that Chelsea Manor is the private property of M/I Homes and that authorized personnel only are allowed to be on the site. To take the photographs presented in the Complaint, the Complainant would have been trespassing.

  
Jason A. Polakow, P.E.

Subscribed and sworn to before me  
this 15<sup>th</sup> day of December 2022.

  
NOTARY PUBLIC





# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

Project/Site: Chelsea Manor, Aurora , IL, DuPage County  
NPDES Permit No: ILR10ZBGE

04/01/2022

We have reviewed your application requesting coverage for Chelsea Manor located at SE of Commons Dr. and Irving Rd. , Aurora , IL 60540, and determined that storm water discharges associated with industrial activity from construction sites are appropriately covered by the [General NPDES Permit](#) issued by the Agency. Your discharge is covered by this permit effective as of the date of this letter. A copy of the NOI submission can be downloaded at this link: <https://npdes-ereporting.epa.gov/net-cgp/api/public/v1/form/1458828/attachment/zip>.

The Permit includes special conditions regarding the application, Storm Water Pollution Prevention Plan and reporting requirements. Failure to meet any portion of the Permit could result in civil and/or criminal penalties. The Agency is ready and willing to assist you in interpreting any of the conditions of the Permit as they relate specifically to your discharge.

As a Permit Holder, it is your responsibility to:

1. Submit a modified Notice of Intent of any substantial modification to the project such as address changes, new contractors, area coverage, or additional discharges to Waters of the United States within 30 days.
2. Submit a Notice of Termination once the site has completed final stabilization and all storm water discharges from construction activities that are authorized by this Permit are eliminated.

Please reference your permit number ILR10ZBGE in all future correspondence. Should you have any questions concerning the Permit, please contact the Permit Section at (217) 782-0610.

Sincerely,

Darin E. LeCrone  
Manager, Permit Section  
Division of Water Pollution Control

Link to: [General NPDES Permit No. ILR10](#)

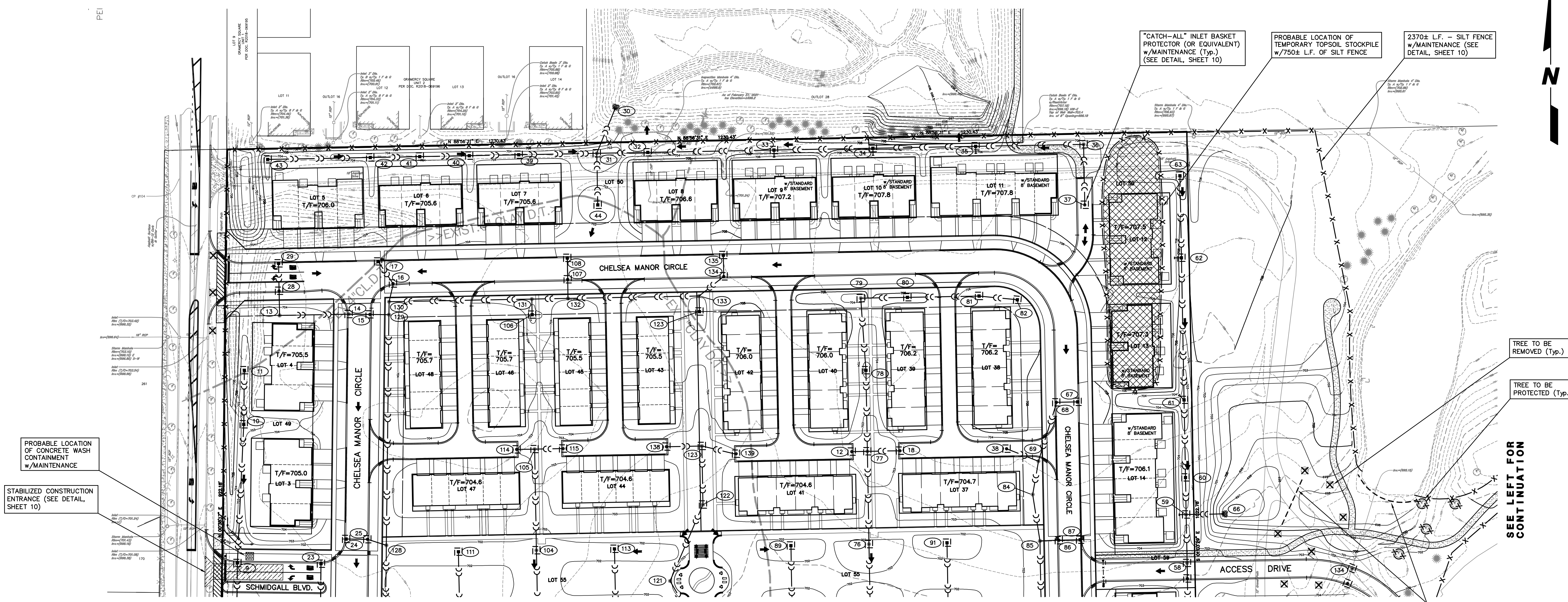
cc:

2125 S. First Street, Champaign, IL 61820 (217) 278-5800  
2009 Mall Street Collinsville, IL 62234 (618) 346-5120  
9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000  
595 S. State Street, Elgin, IL 60123 (847) 608-3131

2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200  
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022  
4302 N. Main Street, Rockford, IL 61103 (815) 987-7760

PLEASE PRINT ON RECYCLED PAPER

EXHIBIT  
- B-1 - 1/1



SEE SHEET 8A

SEE RIGHT FOR CONTINUATION

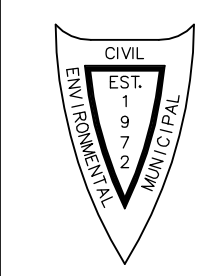
**LEGEND**

EXISTING	PROPOSED	DESCRIPTION
○	●	MANHOLE
□	■	CATCH BASIN
	⊙	INLET
	⊠	CLEANOUT
	⊞	SLOPE INLET BOX
	⊟	HEADWALL
	⊠	END SECTION
	⊡	STORM SEWER
	⊢	'CATCH-ALL' (OR EQUIVALENT) INLET BASKET PROTECTOR (w/MAINTENANCE)
	⊣	TEMPORARY TRIANGULAR SILT DIKE (w/MAINTENANCE)
	⊤	TEMPORARY SEDIMENT BASIN
	⊥	DEWATERING DEVICE
	⊦	SILT FENCE WITH MAINTENANCE
	⊧	RIP-RAP
	➔	OVERFLOW ROUTE
	⊞	PROBABLE TOPSOIL STOCKPILE LOCATIONS
	⊟	TREE TO BE REMOVED
	⊠	TREE PROTECTIVE FENCING
	⊡	NUMBERING SYSTEM USED ON PLANS FOR DRAINAGE STRUCTURE IDENTIFICATION

**NOTES:**  
ALL 4:1 AND STEEPER SLOPES SHALL HAVE EROSION CONTROL BLANKET INSTALLED IMMEDIATELY UPON COMPLETION OF GRADING.

EXHIBIT  
- B-2 -

PREPARED FOR:  
M/I HOMES OF CHICAGO, LLC  
400 EAST DIEHL ROAD, SUITE 230  
NAPERVILLE, IL 60563  
(630) 577-5200



PREPARED BY:  
**CEMCON, Ltd.**  
Consulting Engineers, Land Surveyors & Planners  
2280 White Oak Circle, Suite 100  
Aurora, Illinois 60502-9675  
Ph: 630.862.2100 Fax: 630.862.2199  
E-Mail: info@cemcon.com Website: www.cemcon.com

NO.		DATE	DESCRIPTION	REVISIONS	
1	A	01-19-22/JGC	REVISED PER FOX METRO REVIEW LETTER DATED 11-15-21	NO.	DATE
2	A	01-19-22/JGC	REVISED PER CITY REVIEW LETTER DATED 12-27-21		

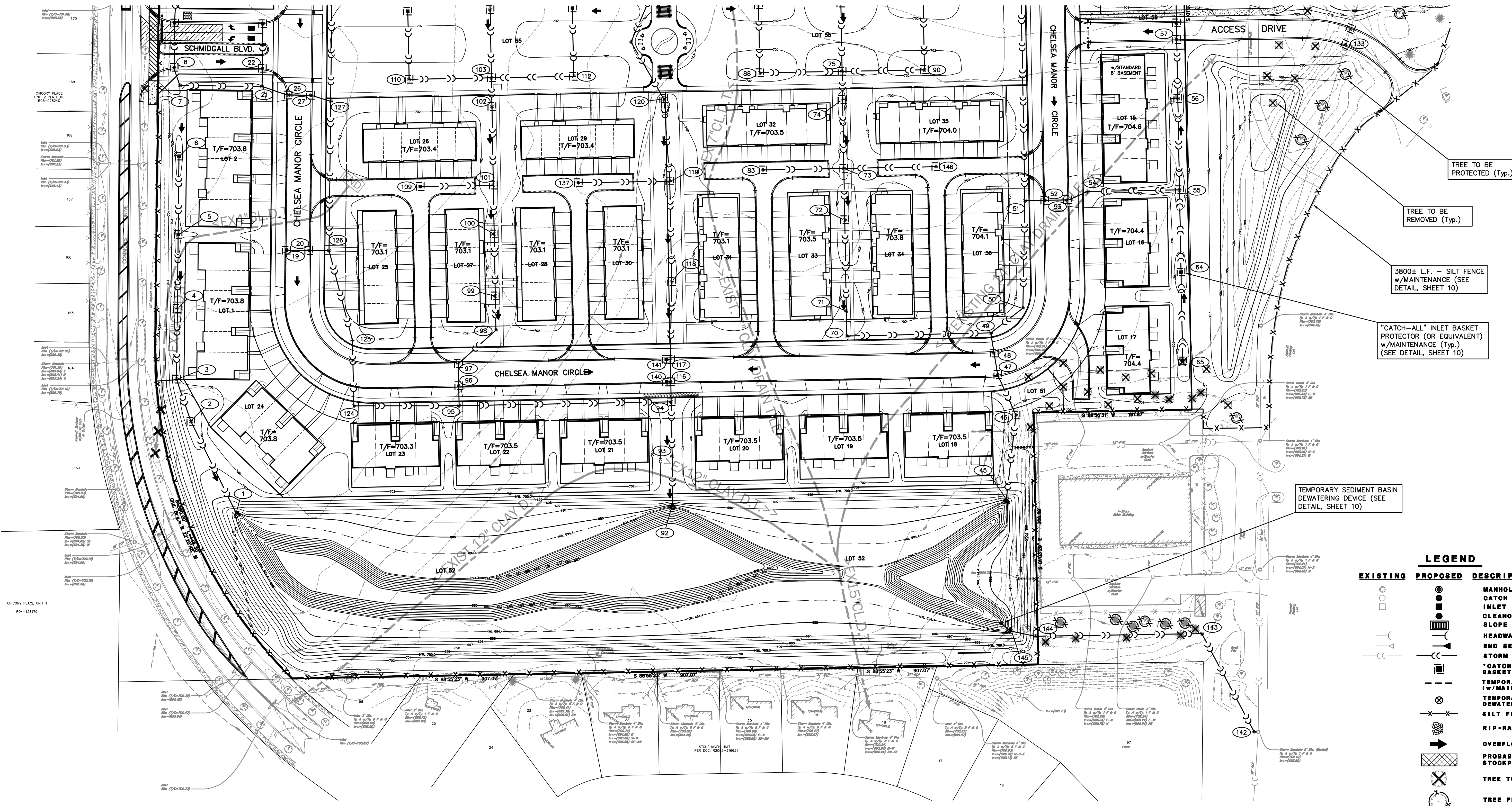
**STORMWATER POLLUTION PREVENTION PLAN**  
**CHELSEA MANOR**

FILE NAME: SOILERO	DSGN. BY: MAM	JOB NO.: 743.027	FLD. BK./PG.: ---	SHEET NO.
DIR: 743027	DRN. BY: JGC	DATE: 11-15-21	SCALE: 1" = 60'	8 of 45

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SEE SHEET 8



TREE TO BE PROTECTED (Typ.)

TREE TO BE REMOVED (Typ.)

3800± L.F. - SILT FENCE w/MAINTENANCE (SEE DETAIL, SHEET 10)

"CATCH-ALL" INLET BASKET PROTECTOR (OR EQUIVALENT) w/MAINTENANCE (Typ.) (SEE DETAIL, SHEET 10)

TEMPORARY SEDIMENT BASIN DEWATERING DEVICE (SEE DETAIL, SHEET 10)

**LEGEND**

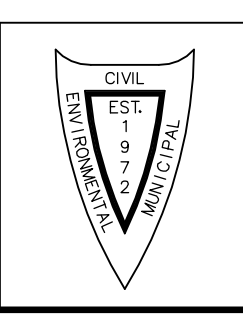
EXISTING	PROPOSED	DESCRIPTION
		MANHOLE
		CATCH BASIN
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		SLOPE INLET BOX
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		END SECTION
		STORM SEWER
		"CATCH-ALL" (OR EQUIVALENT) INLET BASKET PROTECTOR (w/MAINTENANCE)
		TEMPORARY TRIANGULAR SILT DIKE (w/MAINTENANCE)
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		SILT FENCE WITH MAINTENANCE
		RIP-RAP
		OVERFLOW ROUTE
		PROBABLE TOPSOIL STOCKPILE LOCATIONS
		TREE TO BE REMOVED
		TREE PROTECTIVE FENCING
		NUMBERING SYSTEM USED ON PLANS FOR DRAINAGE STRUCTURE IDENTIFICATION

**NOTES:**

ALL 4:1 AND STEEPER SLOPES SHALL HAVE EROSION CONTROL BLANKET INSTALLED IMMEDIATELY UPON COMPLETION OF GRADING.

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PREPARED FOR:  
 M/I HOMES OF CHICAGO, LLC  
 400 EAST DIEHL ROAD, SUITE 230  
 NAPERVILLE, IL 60563  
 (630) 577-5200



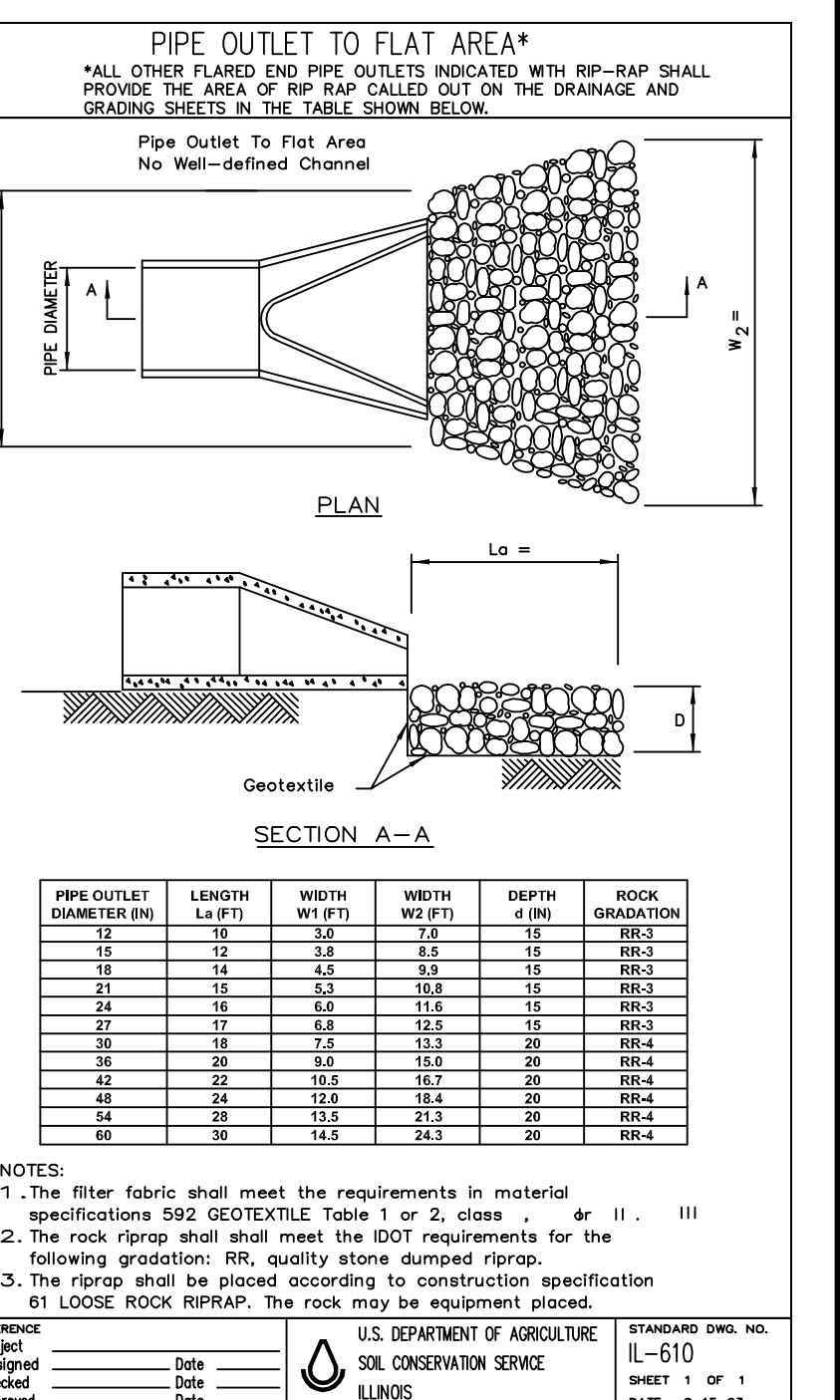
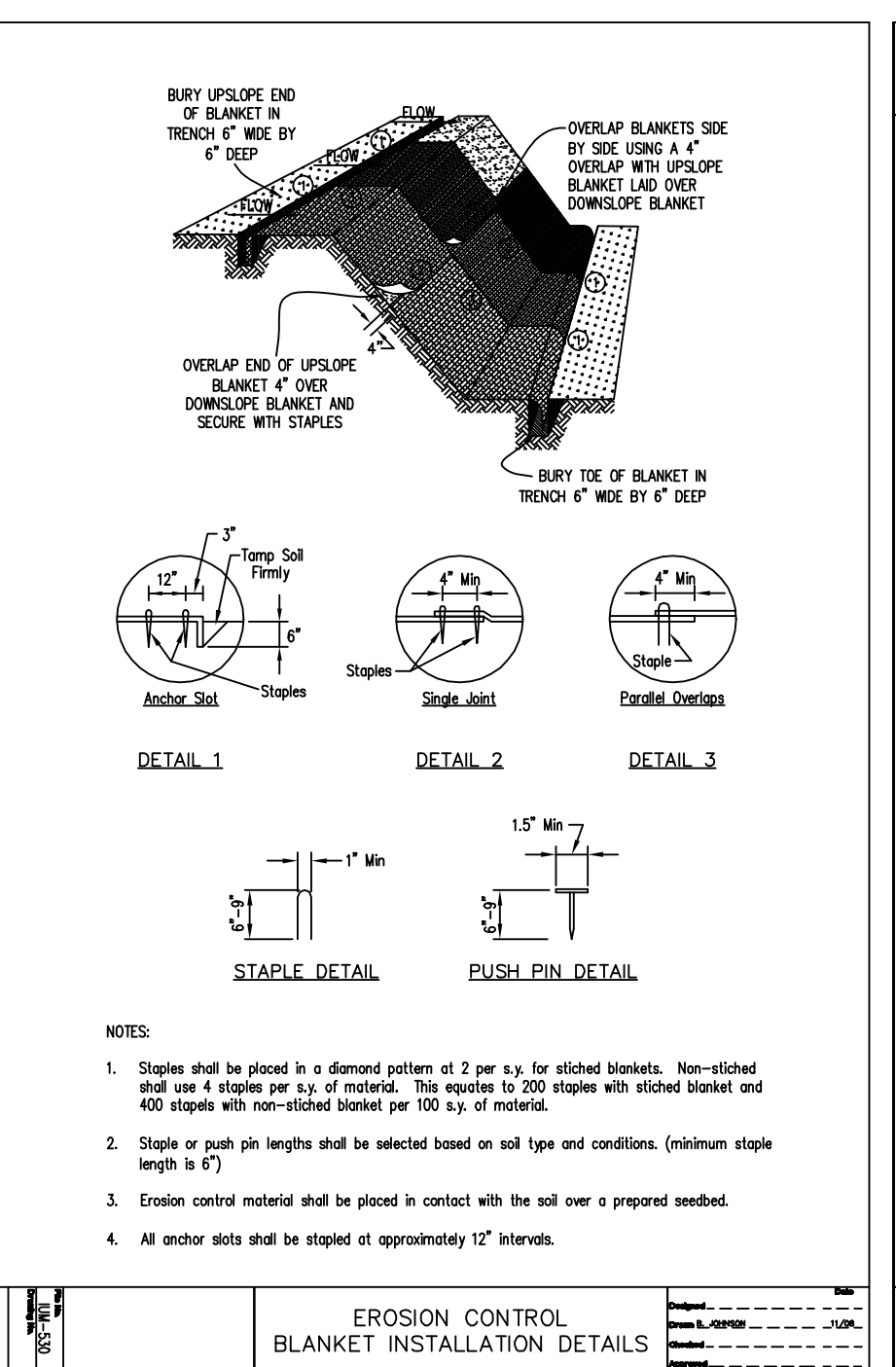
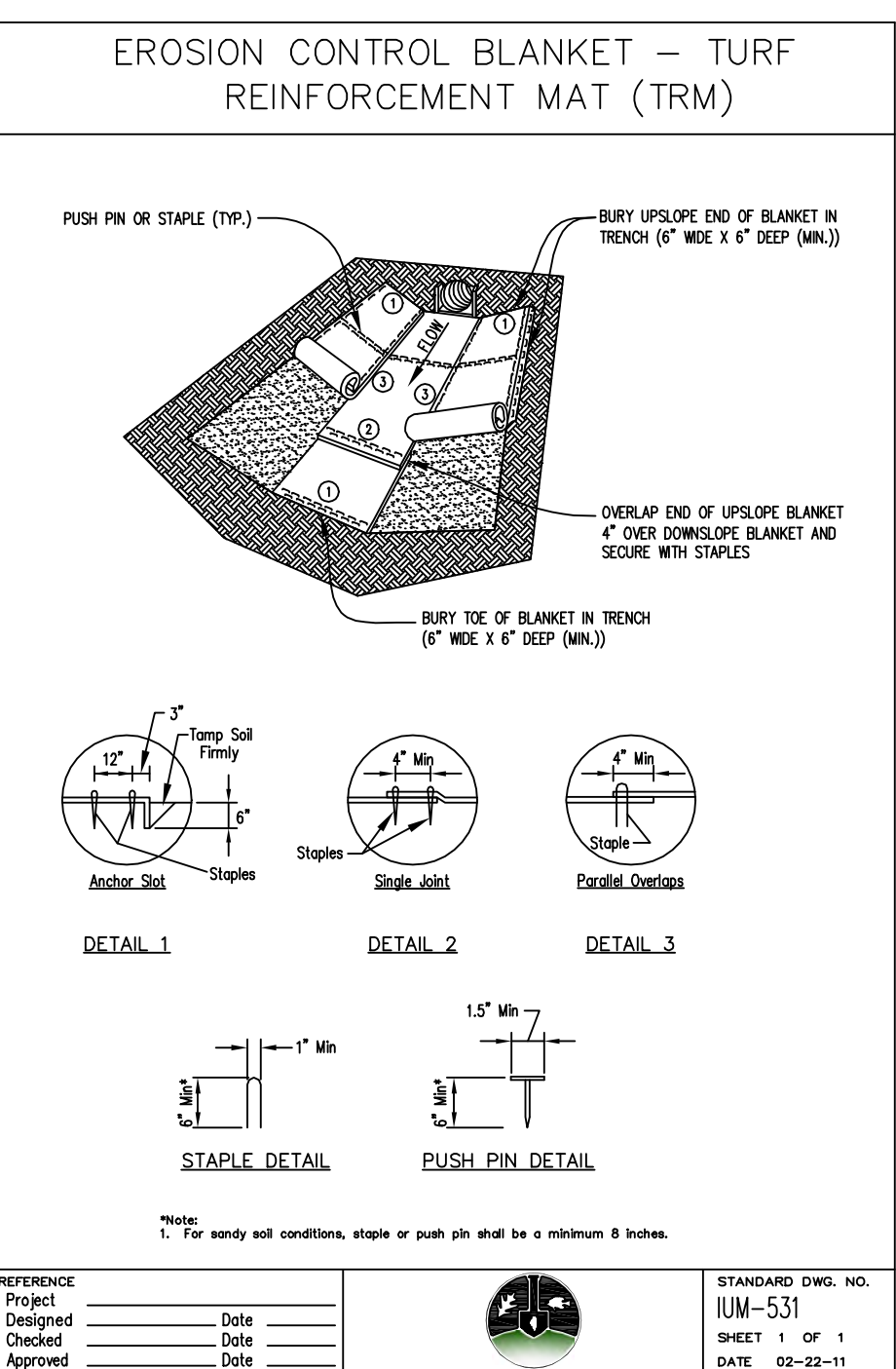
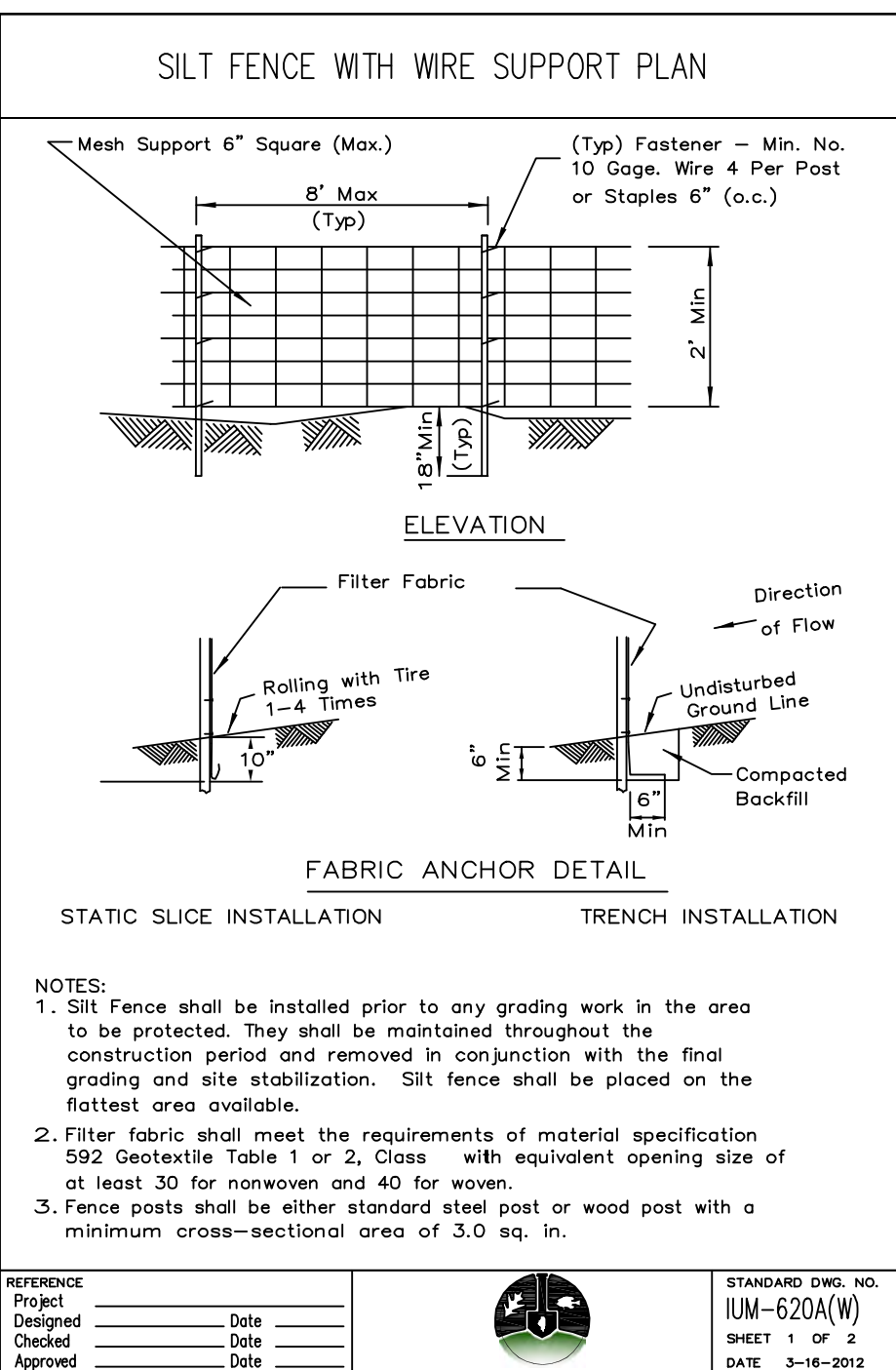
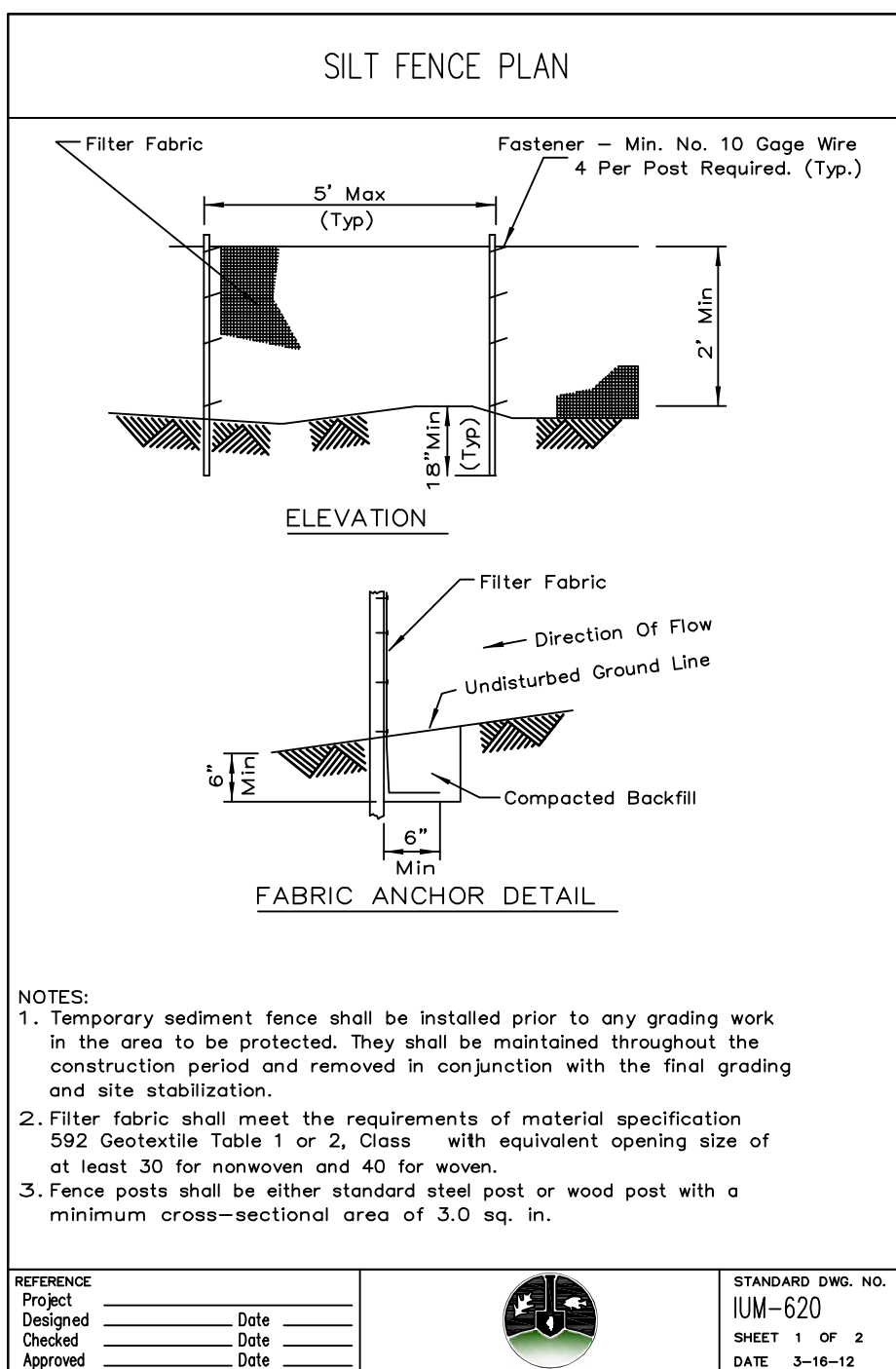
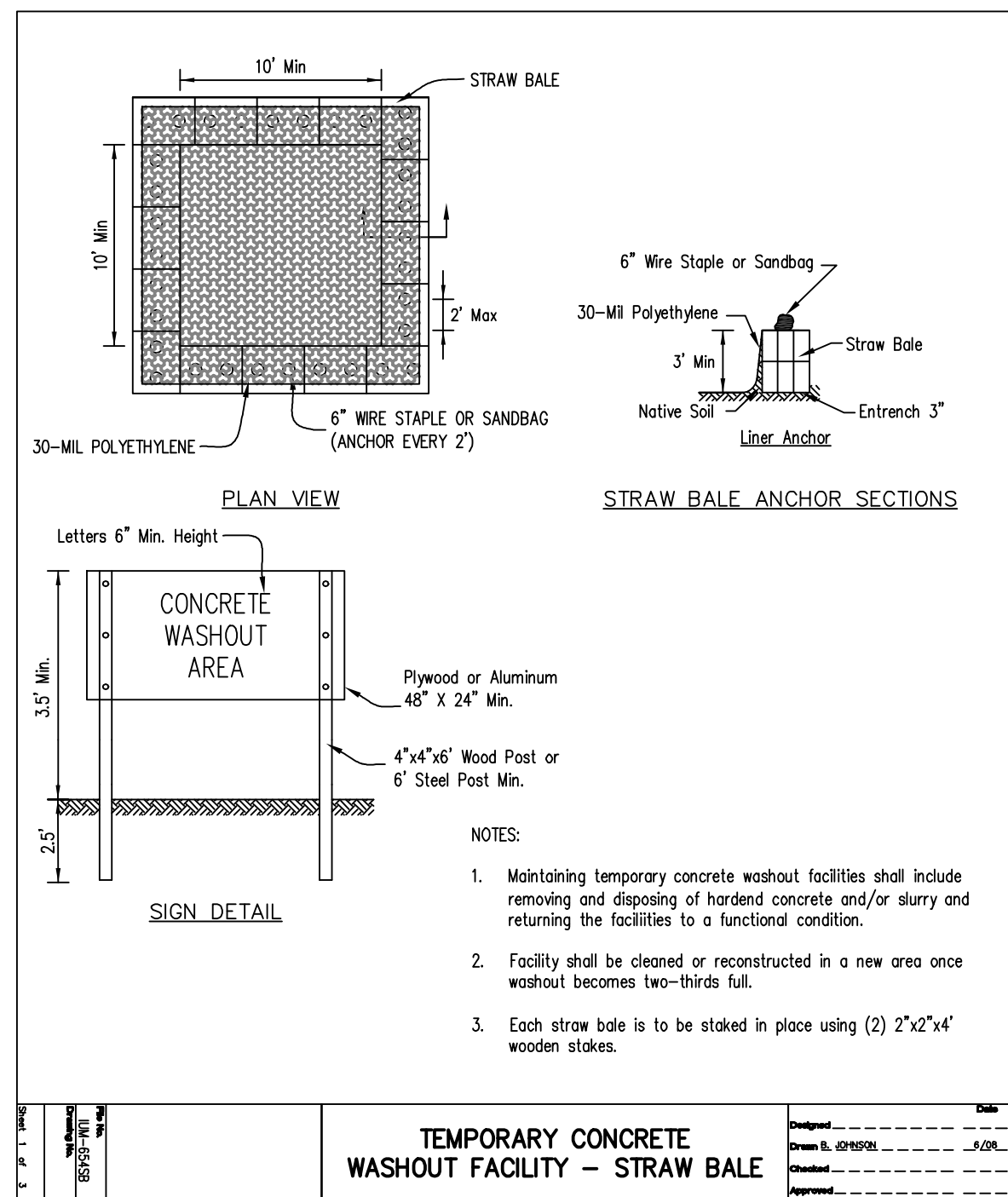
PREPARED BY:  
**CEMCON, Ltd.**  
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 Aurora, Illinois 60502-9675  
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REVISIONS		
NO.	DATE	DESCRIPTION
1	01-19-22/JGC	REVISED PER FOX METRO REVIEW LETTER DATED 11-15-21
2	01-19-22/JGC	REVISED PER CITY REVIEW LETTER DATED 12-27-21

**STORMWATER POLLUTION PREVENTION PLAN**  
**CHELSEA MANOR**

FILE NAME: SOILERO	DSGN. BY: MAM	JOB NO.: 743.027	FLD. BK./PG.: ---	SHEET NO.
DIR: 743027	DRN. BY: JGC	DATE: 11-15-21	SCALE: 1" = 60'	8A of 45





- SOIL EROSION NOTES:**
- PRIOR TO THE START OF ANY CONSTRUCTION ACTIVITIES, THE CONTRACTOR SHALL ERECT ALL PERIMETER SILT FENCE IN ACCORDANCE WITH THE STANDARD DETAILS AND SHALL MAINTAIN THE SILT FENCE UNTIL COMPLETION OF ALL GRADING OPERATIONS.
  - PRIORITY SHALL BE GIVEN TO THE COMPLETION AND STABILIZATION OF THE STORMWATER MANAGEMENT FACILITIES. ANY CONSTRUCTION ACTIVITY IN THESE AREAS SHALL NOT BE PROLONGED IN THE ATTEMPT THAT ALL FINAL GRADING AND STABILIZATION CAN TAKE PLACE AT ONE TIME.
  - THE CONSTRUCTION OF THE STORMWATER MANAGEMENT FACILITIES SHALL BE OF PRIMARY IMPORTANCE IN THE GRADING OPERATION, THE BASIN SHALL THEN BE EXCAVATED TO THE LINES AND GRADES SHOWN ON THE PLANS. WHEN FINAL GRADING IS COMPLETE, THE BASIN SHALL BE STABILIZED WITHIN 7 DAYS.
  - THE CONTRACTORS SHALL BE RESPONSIBLE ON A DAILY BASIS TO CLEAN THE MUD OR DEBRIS DEPOSITED ON ADJACENT STREETS AS A RESULT OF THEIR CONSTRUCTION OPERATIONS AND TO PROVIDE DUST CONTROL WHEN REQUESTED BY THE OWNER'S REPRESENTATIVE.
  - STABILIZATION OF DISTURBED AREAS MUST BE INITIATED WITHIN 1 WORKING DAY OF PERMANENT OR TEMPORARY CESSATION OF EARTH DISTURBING ACTIVITIES AND SHALL BE COMPLETED AS SOON AS POSSIBLE BUT NO LATER THAN 14 DAYS FROM THE INITIATION OF THE STABILIZATION WORK IN AN AREA.
  - STOCKPILES OF SOIL AND OTHER BUILDING MATERIALS TO REMAIN IN PLACE MORE THAN THREE (3) DAYS SHALL BE FURNISHED WITH EROSION AND SEDIMENT CONTROL MEASURES (I.E. PERIMETER SILT FENCE). STOCKPILES TO REMAIN IN PLACE FOR 30 DAYS OR MORE SHALL RECEIVE TEMPORARY SEEDING.
  - UNLESS OTHERWISE INDICATED, ALL VEGETATIVE AND STRUCTURAL EROSION AND SEDIMENT CONTROL PRACTICES WILL BE CONSTRUCTED ACCORDING TO MINIMUM STANDARDS AND SPECIFICATIONS IN THE ILLINOIS URBAN MANUAL REVISED FEBRUARY 2002.
  - THE KANE-DUPAGE SOIL AND WATER CONSERVATION DISTRICT (KDSWCD) MUST BE NOTIFIED ONE WEEK PRIOR TO THE PRE-CONSTRUCTION CONFERENCE, ONE WEEK PRIOR TO THE FINAL COMMENCEMENT OF LAND DISTURBING ACTIVITIES, AND ONE WEEK PRIOR TO THE FINAL INSPECTION.
  - A COPY OF THE APPROVED EROSION AND SEDIMENT CONTROL PLAN SHALL BE MAINTAINED ON THE SITE AT ALL TIMES.
  - PRIOR TO COMMENCING LAND-DISTURBING ACTIVITIES IN AREAS OTHER THAN INDICATED ON THESE PLANS (INCLUDING BUT NOT LIMITED TO, ADDITIONAL PHASES OF DEVELOPMENT AND OFF-SITE BORROW OR WASTE AREAS) A SUPPLEMENTARY EROSION CONTROL PLAN SHALL BE SUBMITTED TO THE OWNER FOR REVIEW BY THE KDSWCD.
  - THE CONTRACTOR IS RESPONSIBLE FOR INSTALLATION OF ANY ADDITIONAL EROSION CONTROL MEASURES NECESSARY TO PREVENT EROSION AND SEDIMENTATION AS DETERMINED BY THE KDSWCD.
  - DURING DEWATERING OPERATIONS, WATER WILL BE PUMPED INTO SEDIMENT BASINS OR SILT TRAPS. DEWATERING DIRECTLY INTO FIELD TILES OR STORMWATER STRUCTURES IS PROHIBITED.
  - SILT FENCE IS TO BE INSTALLED AROUND STORMWATER FACILITIES UPON COMPLETION OF FACILITIES AND REMAIN IN PLACE UNTIL THE CONTRIBUTING AREA IS STABILIZED.
  - ONCE THE CONTRIBUTING AREAS TO THE STORMWATER FACILITIES ARE STABILIZED, THE BASINS SHALL BE CLEANED OUT AND THE FINAL PROPOSED GRADE SHALL BE ACHIEVED.
  - TOPSOIL TO BE STRIPPED ON ENTIRE SITE DURING MASS GRADING.
  - THE CONDITION OF THE CONSTRUCTION SITE FOR WINTER SHUTDOWN SHALL BE ADDRESSED EARLY IN THE FALL GROWING SEASON SO THAT SLOPES AND OTHER BARE EARTH AREAS MAY BE STABILIZED WITH TEMPORARY AND/OR PERMANENT VEGETATIVE COVER FOR PROPER EROSION AND SEDIMENT CONTROL. ALL OPEN AREAS THAT ARE TO REMAIN IDLE THROUGHOUT THE WINTER SHALL RECEIVE TEMPORARY EROSION CONTROL MEASURES INCLUDING TEMPORARY SEEDING, MULCHING AND/OR EROSION CONTROL BLANKET PRIOR TO THE END OF THE FALL GROWING SEASON. THE AREAS TO BE WORKED BEYOND THE END OF THE GROWING SEASON MUST INCORPORATE SOIL STABILIZATION MEASURES THAT DO NOT RELY ON VEGETATIVE COVER SUCH AS EROSION CONTROL BLANKET AND HEAVY MULCHING.
  - IT IS THE RESPONSIBILITY OF THE LANDOWNER AND/OR GENERAL CONTRACTOR TO INFORM ANY SUB-CONTRACTOR(S) WHO MAY PERFORM WORK ON THIS PROJECT, OF THE REQUIREMENTS IN IMPLEMENTING AND MAINTAINING THESE EROSION CONTROL PLANS AND THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT REQUIREMENTS SET FORTH BY THE ILLINOIS EPA.
  - WHEN INSTALLING THE FLARED END SECTIONS INTO THE EXISTING DETENTION AREAS, WORK SHALL BE PERFORMED IN DRY CONDITIONS. ONCE WORK IN THIS AREA BEGINS, PRIORITY SHALL BE GIVEN TO THE COMPLETION OF THE WORK AND FINAL STABILIZATION OF ALL ADJACENT DISTURBED AREAS. EVERY EFFORT SHOULD BE MADE TO ENSURE THAT SEDIMENT DOES NOT ENTER THE DETENTION BASIN DURING THIS TIME.
  - CONCRETE WASHOUT SHOULD BE CONTAINED AT ALL TIMES. WASHOUT MATERIAL SHOULD NOT BE ALLOWED TO ENTER STORM SEWERS OR LEACH INTO THE SOIL UNDER ANY CIRCUMSTANCES, ANY WASTE SHOULD BE DISPOSED OF PROPERLY AND THE LOCATION OF THE WASHOUT SHOULD BE DESIGNATED WITH PROPER SIGNAGE.
  - ALL DISCHARGE LOCATIONS SHOULD BE MONITORED CLOSELY FOR EVIDENCE OF SEDIMENT. SEDIMENT SHOULD NOT BE ALLOWED TO LEAVE THE SITE UNDER ANY CIRCUMSTANCES.

Seeding Mixture	Lbs./Acre	Lbs./1000 ft <sup>2</sup>	Seeding Dates
<b>Permanent Seeding</b>			
1. Smooth Bromegrass	24	0.55	Early Spring - Sept. 30
2. Tall Fescue	12	0.3	Early Spring - Sept. 30
or Redtop	2.5	0.06	Early Spring - Sept. 30
3. Redtop	2.5	0.06	Early Spring - Sept. 30
4. Ladino Clover	2.5	0.06	Early Spring - Sept. 30
5. Creeping Red Fescue	15	0.34	Early Spring - Sept. 30
6. Switchgrass*	8	0.2	Early Spring - Sept. 30
<b>Temporary Seeding</b>			
1. Cereal Rye or Wheat	90	2.5	Early Spring - Sept. 30
2. Oats	90	2.5	Early Spring - Sept. 30
3. Perennial Ryegrass	24	0.55	Early Spring - Sept. 30
<b>Companion Crops</b>			
1. Spring Oats	32	0.75	Early Spring - June 30
2. Cereal Rye or Wheat	90	2.1	July 1 - Sept. 30
<b>Straw Mulching</b>			
	3950	90	Anytime
<b>Sodding</b>			
Nitrogen	130	3	Early Spring - Sept. 30
Phosphorus as P <sub>2</sub> O <sub>5</sub>	40	1	
Potassium as K <sub>2</sub> O	40	1	

1. Must be irrigated during hot, dry periods  
2. Do not seed in the fall  
Note: Dominant seeding may be done from November 15 to March 15

**Suggested Maintenance Catch-All Inlet Protector**

The frequency and degree of maintenance required is dependent on site conditions and rainfall. Certain types of soil and runoff laden with hydrocarbons, oil, silt, etc., tend to 'clog' the filter bags more quickly than others.

Generally, the bags can be emptied, inverted, washed, and re-used throughout an entire project. They may also be vacuumed. The bag must be replaced if it is severely worn or torn.

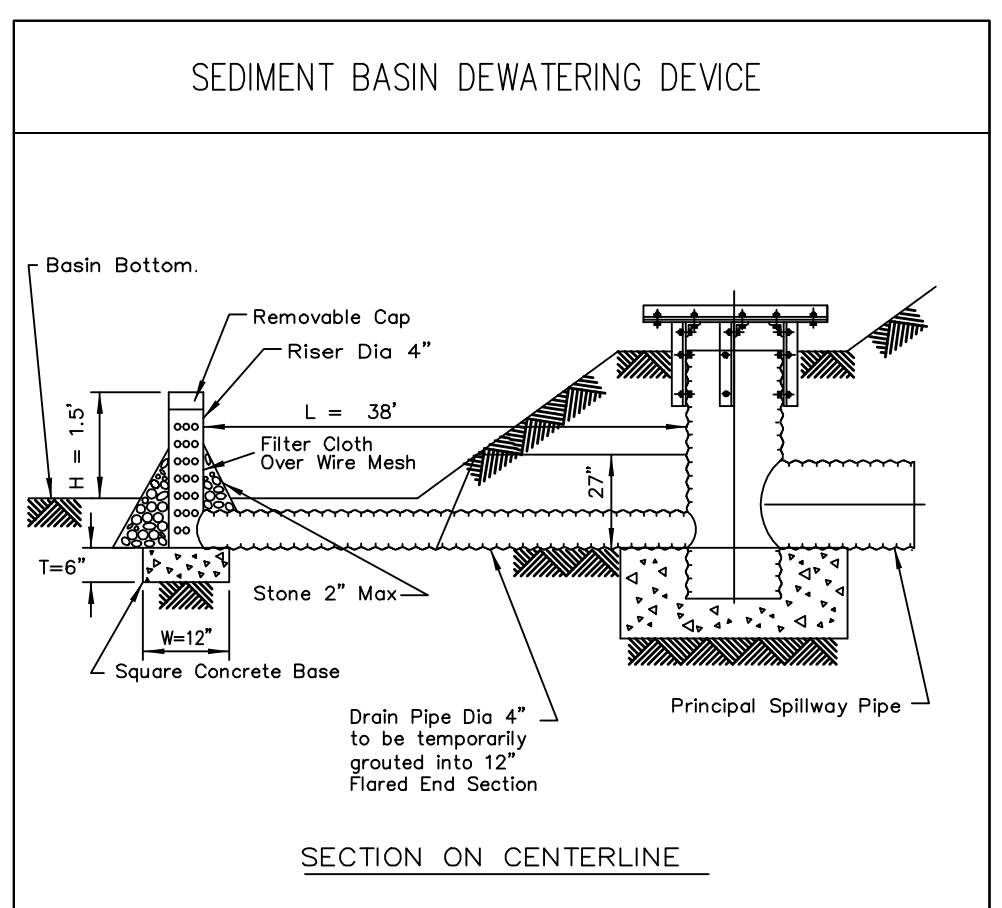
**GUIDELINES FOR CONSTRUCTION SITES**

- Inspect the bag at least once per month - Clean, if needed
- Inspect the bag every time there is rainfall loading more than two inches - Clean, if needed
- Replace the bag if it has a hole in it
- Replace the bag if it appears clean but won't pass water

**GUIDELINES FOR PARKING LOTS & MAINTENANCE YARDS**

- Inspect the bag at least once per month - Clean, if needed
- Inspect the bag every time there is rainfall loading more than two inches - Clean, if needed
- Replace the bag every 6 months. More often for harsh environments
- Replace the bag after any oil, coolant, or solvent spill
- Replace the bag if it has a hole in it
- Replace the bag if it appears clean but won't pass water

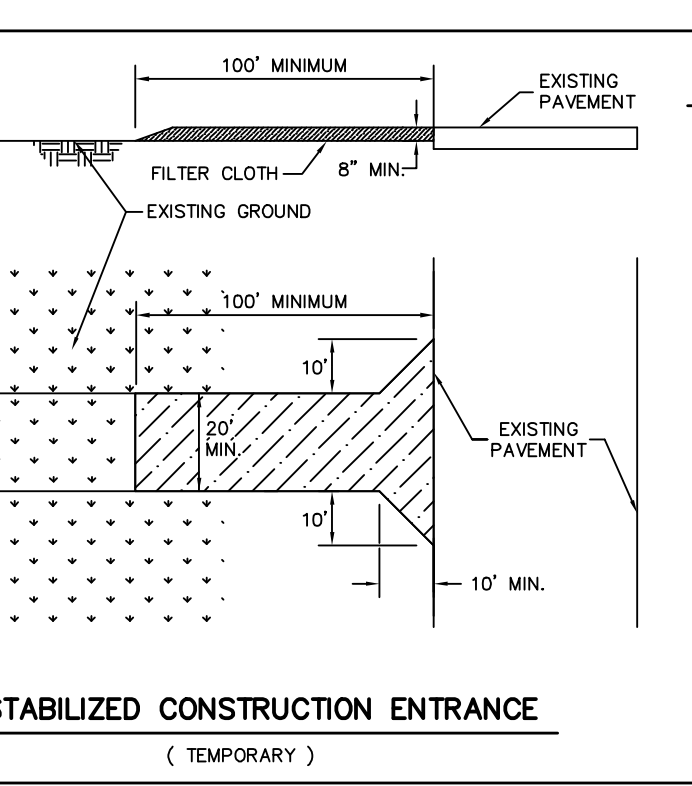
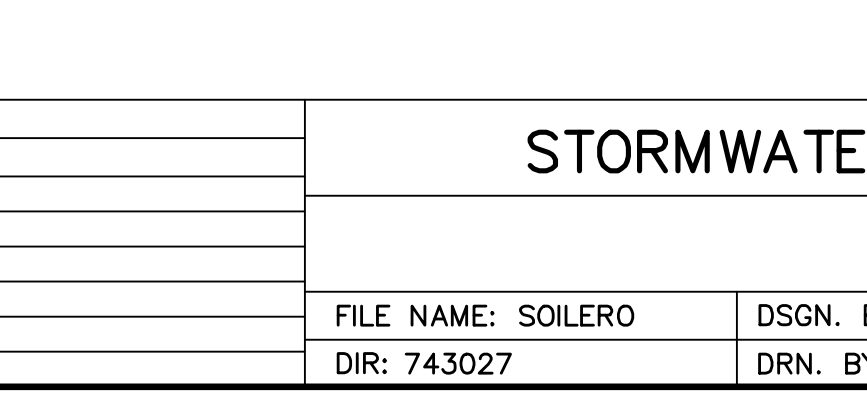
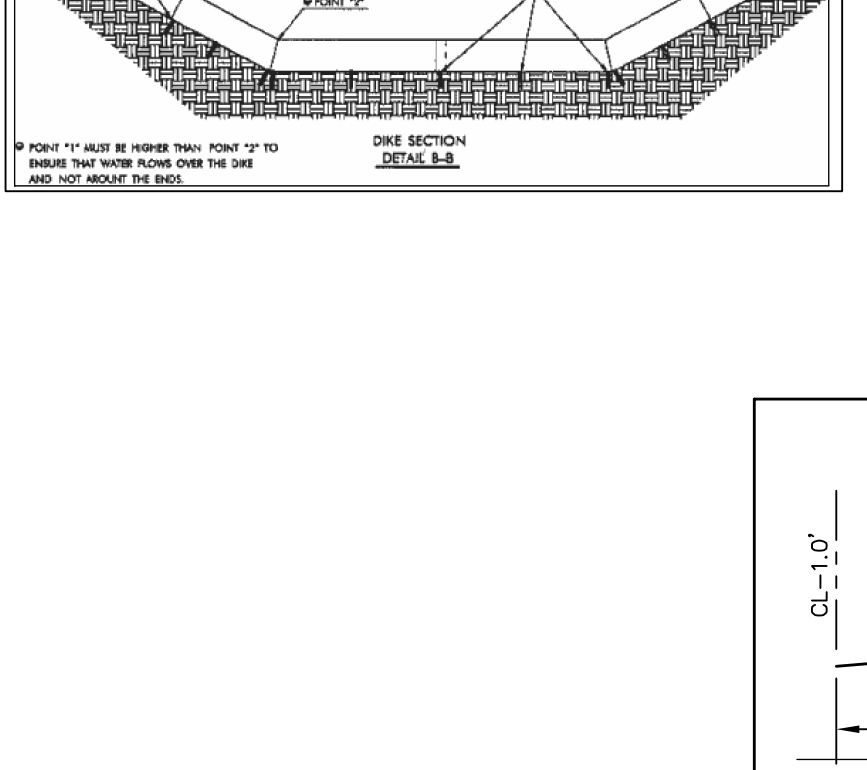
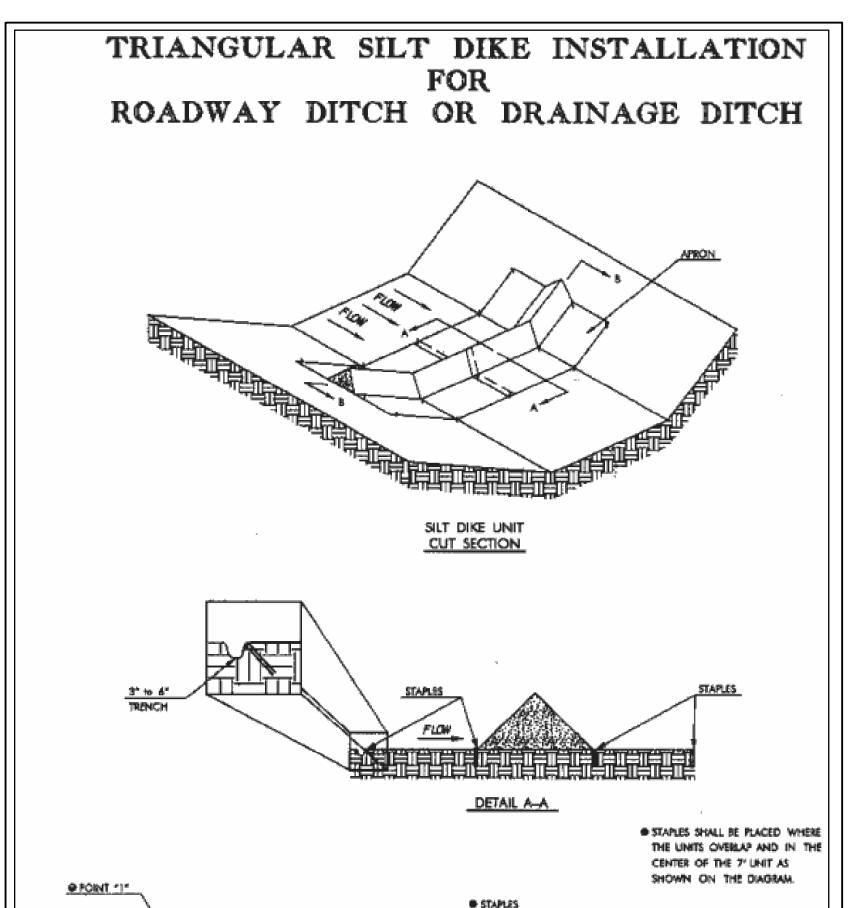
Typically, the Catch-All IB is installed in a gravel parking lot or maintenance yard. The degree and frequency of maintenance required is generally less than for Catch-Alls installed at construction sites.



**TRIANGULAR SILT DIKE INSTALLATION FOR ROADWAY DITCH OR DRAINAGE DITCH**

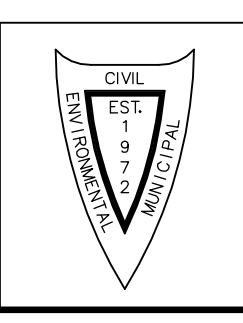
**NOTES:**

- Slotted inlets shall be fabricated from corrugated metal or smooth steel.
- Slots shall be cut cleanly and deburred. Ends of slots may be round or square.
- Gravel filter, if used, shall be pit run sand and gravel with a maximum particle diameter of 2".
- Fabricated or standard elbow; fabricated or standard tee with the pipe or plug in upstream end; or standard tee with one end embedded in concrete.
- Thirty 1" diameter holes per foot of riser may be substituted for the 1" x 4" slots for 6" diameter risers.
- Drain pipe shall be the same material and gauge as the principle spillway pipe.
- Slot spacing and size shall be as shown on standard drawing IL-580.
- Coupling bands shall be as shown on standard drawing IL-580.



- CONSTRUCTION ENTRANCE SPECIFICATIONS**
- STONE SIZE - USE 2" STONE, OR RECLAIMED OR RECYCLED CONCRETE EQUIVALENT.
  - THICKNESS - NOT LESS THAN (8) INCHES.
  - FILTER CLOTH - SHALL BE PLACED OVER THE ENTIRE AREA PRIOR TO PLACING OF STONE.
  - MAINTENANCE - THE ENTRANCE SHALL BE MAINTAINED IN A CONDITION WHICH WILL PREVENT TRACKING OR FLOWING OF SEDIMENT ONTO PUBLIC RIGHTS-OF-WAY. THIS MAY REQUIRE PERIODIC TOP DRESSING WITH ADDITIONAL STONE AS CONDITIONS DEMAND AND REPAIR AND/OR CLEANOUT OF ANY MEASURES USED TO TRAP SEDIMENT. ALL SEDIMENT SPILLED, DROPPED, WASHED OR TRACKED ONTO PUBLIC RIGHTS-OF-WAY MUST BE REMOVED IMMEDIATELY.
  - WASHING - WHEELS SHALL BE CLEANED TO REMOVE SEDIMENT PRIOR TO ENTRANCE ONTO PUBLIC RIGHTS-OF-WAY. WHEN WASHING IS REQUIRED, IT SHALL BE DONE ON AN AREA STABILIZED WITH STONE AND WHICH DRAINS INTO AN APPROVED SEDIMENT TRAPPING DEVICE.
  - PERIODIC INSPECTION AND NEEDED MAINTENANCE SHALL BE PROVIDED AFTER EACH RAIN.

PREPARED FOR:  
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400 EAST DIEHL ROAD, SUITE 230  
NAPERVILLE, IL 60563  
(630) 577-5200



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Consulting Engineers, Land Surveyors & Planners  
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NO.		DATE		DESCRIPTION	

**STORMWATER POLLUTION PREVENTION PLAN DETAILS**  
**CHELSEA MANOR**

FILE NAME: SOILERO DSGN. BY: MAM JOB NO.: 743.027 FLD. BK./PG.: --- SHEET NO. 10 of 45  
DIR: 743027 DRN. BY: JGC DATE: 11-15-21 SCALE: 1" = N.T.S.

**Kane-DuPage SWCD SESC Inspection Report**

<b>Project:</b>		<b>Inspection Date:</b>
<b>NPDES#:</b>		<b>Municipality:</b>
<b>Inspector:</b>		<b>Site Contact Name:</b>
<b>Contact Email:</b>		<b>Contact Phone #:</b>

<b>Practice</b>	<b>Activity</b>	<b>Yes-No-N/A</b>
<b>Perimeter Controls/Silt Fence</b>	<b>Installed</b>	
	<b>Maintained</b>	
<b>Stockpiles</b>	<b>Contained</b>	
	<b>Stabilized</b>	
<b>Inlet Protection</b>	<b>Installed</b>	
	<b>Maintained</b>	
<b>Streets</b>	<b>Cleaned</b>	
<b>Construction Entrance</b>	<b>Installed</b>	
	<b>Maintained</b>	
<b>Culvert Inlet Protection</b>	<b>Installed</b>	
	<b>Maintained</b>	
<b>Disturbed Area Stabilization</b>	<b>Mulched</b>	
	<b>Seeded</b>	
	<b>Blanketed</b>	
	<b>Other</b>	
<b>Vegetation Establishment</b>		
<b>Velocity Minimization/Dissipation</b>	<b>Checks</b>	
	<b>Lined Apron</b>	
	<b>Matting</b>	
<b>Dust Control</b>		
<b>Detention Basins</b>	<b>Stabilized</b>	
	<b>Protected</b>	
<b>Concrete Washout</b>	<b>Installed</b>	
	<b>Maintained</b>	
<b>Sediment Traps</b>	<b>Installed</b>	
	<b>Maintained</b>	
<b>Dewatering Practice(s)</b>	<b>Installed</b>	
	<b>Maintained</b>	
<b><i>Special Management Areas</i></b>		
<b>Streambank/Wetland</b>	<b>Protected</b>	
	<b>Stabilized</b>	
<b>Temporary Stream Crossings</b>	<b>Installed</b>	
	<b>Maintained</b>	
	<b>Removed</b>	
<b>Stream Diversion</b>	<b>Installed</b>	
	<b>Stabilized</b>	
<b>Non-erodible Cofferdam</b>	<b>Installed</b>	
	<b>Maintained</b>	
<b><i>Overall - Sediment is contained onsite</i></b>		



Electronic Filing: Received, Clerk's Office 12/16/2022  
**Kane-DuPage SWCD SESC Inspection Report - Photos and Comments**

Clear Map Draw Snip Screen Save Exhibit

4 Dec Exhibits Compare Surfaces Overlays Markups Saved Quantities Views

Jason Users Chelsea Manor Last Scan 4 Dec

Distance & Slope X  
Distance 61.9 ft  
Overground distance 64.1 ft  
Average Grade 5.3 %  
Save as Markup

Files Print Support

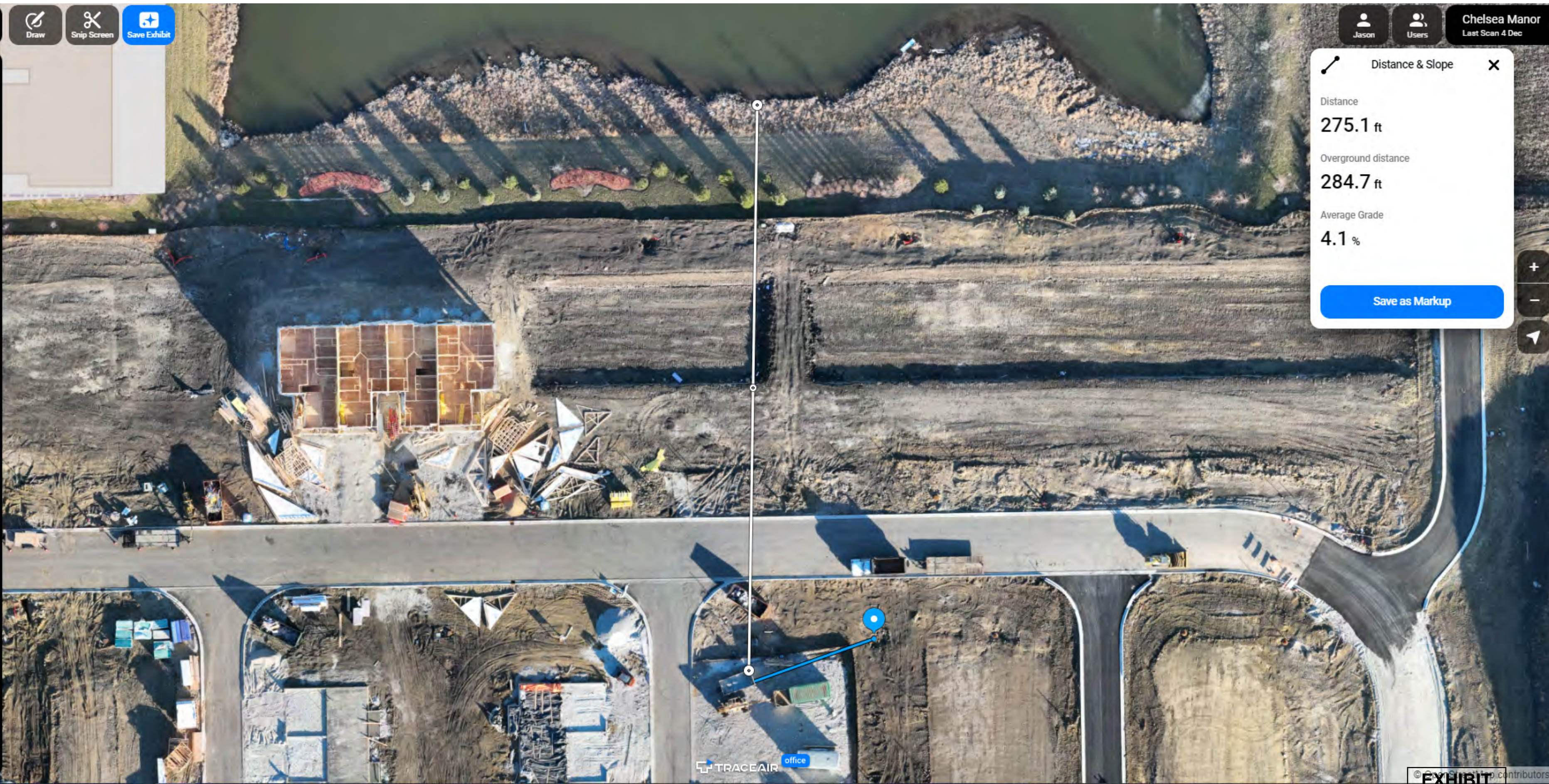
TRACEAIR office

Clear Map Draw Snip Screen Save Exhibit

4 Dec Exhibits Compare Surfaces Overlays Markups Saved Quantities Views

Jason Users Chelsea Manor Last Scan 4 Dec

Distance & Slope X  
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Overground distance 284.7 ft  
Average Grade 4.1 %  
Save as Markup



Files Print Support