

Electronic Filing: Received, Clerk's Office 12/16/2022

Paul Christian Pratapas
Complainant

V

Chelsea Manner by MI Homes
Respondent

IPCB 2023-057

Response to Motion

Respondent filed a motion to have the above case dismissed for being frivolous. Citing the following:

1. the Complaint fails to allege, as required, the extent, duration, or strength of the offending event.
2. 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.
3. the Complaint relies solely on legal conclusions that are not based upon facts contained in the Complaint
4. The undisputed facts based on my photos show no evidence of concrete washout or sediment laden water being discharged or violations

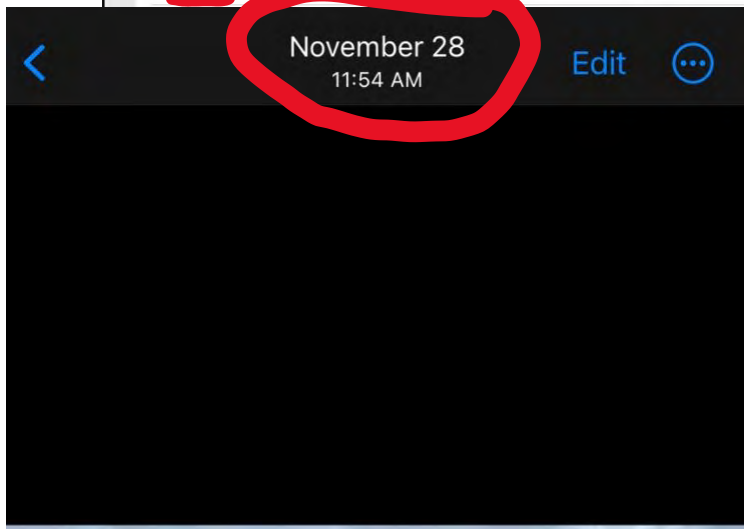
In response Complainant corrects and asserts:

1. The day violations were observed were included and meet the minimum requirements. Complainant requests an order requiring respondent furnish complainant with SWPPP book access to determine with greater accuracy the length of violations so a total of associated fines can be calculated per violation, per day
2. Photographs clearly show inadequate, inappropriate, and unattended to BMPs all in violation of their permit. Pollutants are not controlled and minimized from entering the street and or stormwater system. Complainant holds a current certification from USEPA to fulfill knowledge requirements for SWPPP compliance, as well as has been a certified inspector of stormwater who held a OSHA 30 certification
3. The respondent relies on attempts to manipulate and mislead The Board. Certifications required under their NPDES Permit require all worker/contractors be aware of SWPPP responsibilities and take responsibility for their failures. The statements in respondent's motion, especially

by the PE who has ethics requirements, deny responsibility for clear violations. This is a violation of their permit. Complainant requests a minimum additional fine of \$50,000 for each violation and to void the permit until such time as all deficiencies are corrected and a willingness to take responsibility implemented.

4. The washout area is in no way reflective of what was or would ever be approved. The washout water can be seen on the ground, but frozen. The overnight temp for the area dipped to freezing prior to photographs being taken. The washout area is combined with vehicle storage in violation of the permit. There is washout on ground outside of designated area. The receptacle is partially on and off the 3-inch stone. There is no way for the container to be covered in the event of rain as picture was taken on a Sunday. The container is not sitting flat with gaps on both sides visible in picture. The only approved ways to remove the water when servicing container are evaporation and pump truck, neither of which are likely occurring or have been identified in motion to dismiss. There is also a channel along the silt fence which was either created intentionally to move waster away from washout and storage area or naturally via erosion. By stating the area was in compliance is an admission to the violation and fines should be assessed accordingly.
5. Complainant was not trespassing as the build site is part of a much larger completed development, there are signs inviting the public from public roads to view the site, and signs at individual sites notifying which units are available. "No Trespassing" is listed on the available unit signs and references if someone were to approach build area. The roads are public. Trespassing at these sites is for safety and to protect builder's property (Tools Vehicles etc.) neither of which complainant would do or allow anyone else to do. Complainant has been a resident of the area since 1984 and holds to relevant degrees and holds expertise in the build sequence for townhomes and single-family homes. The site was safer and cleaner by my appearance. Complainant is an Eagle Scout and was simply fulfilling his duties as such.

6	7	8	9	10	11	12	13	14	15	16	17	18	19
60°	55°	54°	69°	75°	58°	35°	36°	41°	36°	35°	34°	28°	26°
39°	35°	40°	46°	56°	32°	32°	24°	22°	31°	32°	28°	20°	14°







ILLINOIS URBAN MANUAL PRACTICE STANDARD SILT FENCE CODE 920 920 – DEFINITION

A temporary barrier of entrenched geotextile fabric (filter fabric) stretched across and attached to supporting posts used to intercept sediment laden sheet flow runoff from small drainage areas of disturbed soil so as to settle out suspended soil particles. PURPOSE The purpose of this practice is to cause interception and deposition of transported sediment load from sheet flow leaving disturbed areas. CONDITIONS WHERE PRACTICE APPLIES 1. Where runoff occurs causing sheet erosion. 2. Downslope areas for perimeter protection from sheet flow. 3. Where adjacent areas are to be protected from silt laden runoff. 4. Where effectiveness is required until permanent stabilization of the disturbed areas CRITERIA The maximum drainage area for overland flow to a silt fence shall not exceed 1/2 acre per 100 feet of fence. All silt fence shall be placed as close to the contour as possible, with the ends extending upslope. Silt fence shall not be placed across, or in areas of concentrated flow such as; streams, swales, or ditches. The maximum allowable slope distances contributing runoff to a silt fence are listed in the following table: Slope Maximum Spacing (%) along Slope (ft.) 25 50 20 75 15 125 10 175 Flatter than 10 200 920 - When one row of fence is used, or it is the last in a series, the area below the fence must be undisturbed or stabilized. Silt fence fabric shall be, at a minimum, selected using material specification IUM 592 GEOTEXTILE, Table 1, Class 2. Fence posts shall be a minimum of 48 inches long. Wood posts shall be of sound quality wood with a nominal cross sectional area of 2 x 2 inches. Steel posts shall be standard T and U sections weighing not less than 1.33 pounds per linear foot or other steel posts having equivalent strength and bending resistance. The maximum spacing between posts

shall be 5 feet. The posts shall be driven a minimum of 18 inches into the ground or as approved by the engineer. Spacing may need to be adjusted so the posts are located in low areas where water may pond. Additional posts may be required at low areas. When splices are necessary, the fabric shall be spliced at a support post and posts twisted together per drawing IUM620BW so silt-laden water cannot escape around, or beneath the fence. The height of a silt fence shall be a minimum of 24 inches above the original ground surface. The silt fence shall be entrenched to a minimum depth of 6 inches, with an additional 6 inches extending along the bottom of the trench in the upslope direction. The 6 inch extension of fabric along the bottom may need to be cut where two fences are spliced per the method mentioned above. The posts shall be set, fabric installed, trench backfilled, and the soil compacted over the fabric to 95%. The silt fence may also be entrenched by static slicing. Static slicing consists of the insertion of a narrow customshaped blade approximately 10 inches into the ground, while simultaneously pulling the silt fence fabric into the opening created as the blade is pulled through the ground. The blade shall impart no vibration or oscillatory motion. The tip of the blade shall be designed to slightly disrupt the soil upward, preventing horizontal compaction of the soil and creating optimum soil conditions for mechanical compaction. Compact (2 passes typically) using a tire on the tractor. Post driving followed by tying or stapling the fabric to the post shall finalize the installation. The filter fabric shall be securely fastened to the upslope side of the wooden posts using heavy duty wire staples at least 1 inch long, or in accordance with manufacturer's recommendations. Fabric shall be attached to steel posts according to manufacturer's recommendations. If a silt fence crosses contours, J-Hooks shall be installed perpendicular to the upslope side of the fence in order to minimize concentrated flow and erosion along the upslope side of the fence and more broadly distribute sediment deposition. Silt fence shall be installed prior to the clearing of existing vegetation and grading work if the clearing results in the exposure of bare soil.

CONSIDERATIONS Silt fence may be sold with additional support systems including wire backing or polymeric mesh. Post spacing can be lengthened to 10 feet if wire or poly mesh backed silt fence is used. When traditional silt fence is used appropriately along with multiple erosion & sediment control practices, wire or poly mesh fences are often not necessary. Wire fence shall be a minimum 14-gauge wire with a maximum 6-inch mesh opening. The filter fabric shall be furnished in a continuous roll cut to the length of the wire fence needed to avoid 920 - splices. The wire mesh shall not be buried and compacted in the anchor trench; the bottom level of mesh stops at ground level. The filter fabric and wire support, if used, shall be securely fastened to the upslope side of the wooden posts using heavy duty wire staples at least one inch long or in accordance with manufacturer's recommendations. The fabric shall be attached to the wire support to prevent sagging of the fabric. Fabric shall be attached to steel posts according to manufacturer's recommendations. Where space allows, silt fence at the end of a slope should be placed an adequate distance from the toe to allow for sediment storage.

PLANS AND SPECIFICATIONS Plans and specifications for installing silt fence shall be in keeping with this standard and shall describe the requirements for applying the practice to achieve its intended purpose. At a minimum include the following:

1. Location(s) where the silt fence is to be installed.
2. The type, size, spacing, material and insertion depth of fence posts.
3. Location and interval distance of Jhooks, if used.
4. The type and size of wire or other approved support mesh backing, if used.
5. The type of filter fabric used.
6. The method of anchoring the filter fabric.
7. The method of fastening the filter fabric to the fence posts.
8. The rock size and location of gravel check dams, if used.

All plans shall include the installation, inspection, and maintenance schedules with the responsible party identified. Standard Drawing IL-620A SILT FENCE PLAN or IL-620A(W) SILT FENCE WITH WIRE SUPPORT PLAN can be used as the plan sheets.

OPERATION AND MAINTENANCE Silt fence shall be removed once upslope areas have been permanently stabilized. Silt fence shall be inspected no less frequently than every week during construction. Should any part of the silt fence installation (fabric, posts, backfill seal, etc.) become ineffective prior to the required duration of its use, the individual part, or the entire system shall be replaced promptly. Sediment deposits shall be removed when the level of deposition

reaches no greater than one-half the height of the silt fence. Any sediment deposits remaining in place after the silt fence is no longer required shall be dressed to conform to the existing grade, a seedbed prepared, and the site vegetated. See IUM STANDARD, PERMANENT VEGETATION 880 REFERENCES North Carolina Sedimentation Control Commission, 1988. Erosion and Sediment Control Planning and Design Manual. Virginia Department of Conservation and Recreation, Division of Soil and Water Conservation, 1992. Virginia Erosion and Sediment Control Handbook. 3rd ed., VA Washington State Department of Ecology, 2000. Stormwater Management Manual for Western Washington. WA International Erosion Control Association, 2008, Silt Fence Installation Efficacy: Definitive Research Calls for Toughening Specifications and Introducing New Tech. October 2017 urbst920.doc

Certification Example:

As a subcontractor, you are required to comply with the Stormwater Pollution Prevention Plan (SWPPP) for any work that you perform on-site. Any person or group who violates any condition of the SWPPP may be subject to substantial penalties or loss of contract. You are encouraged to advise each of your employees working on this project of the requirements of the SWPPP. A copy of the SWPPP is available for your review at the office trailer.

Each subcontractor engaged in activities at the construction site that could impact stormwater must be identified and sign the following certification statement.

By signing below, I certify under the penalty of law that I have read and understand the terms and conditions of the SWPPP for the above designated project and agree to follow the practices described in the SWPPP.

Based on the above, complainant requests the following:

1. The motion for dismissal be rejected
2. Additional fines assessed for unwillingness to accept responsibility for violations
3. An order requiring Respondent provide Complainant access to the SWPPP Book within a "reasonable" amount of time
4. The permit be voided until such time as the contractor certifications are valid AND site compliant as required by their permit
5. Have any governing board for PEs notified of the ethics breach by the PE claiming the site is compliant and BMPs implemented properly, and an order stating they be denied access to site until this issue is addressed under certification guidelines for understanding and accepting SWPPP Rules/Responsibilities
6. Anyone who certified to response from respondent be penalized for knowingly certifying to false statements in violation of the permit