

ILLINOIS POLLUTION CONTROL BOARD  
June 6, 2024

PAUL C. PRATAPAS, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 23-14  
 ) (Citizens Enforcement - Water)  
 HORIZON CONSTRUCTION GROUP, INC., )  
 )  
 Respondent. )

ORDER OF THE BOARD (by M.D. Mankowski):

On July 15, 2022, Paul C. Pratapas filed a complaint against Horizon Construction Group, Inc. (Horizon). The complaint concerns Horizon’s construction site located at 1150 Lily Cache Lane in Bolingbrook, Will County (Site).

On June 21, 2023, respondent moved to dismiss this case for want of prosecution. While that motion was pending, complainant moved to amend the complaint. On October 20, 2022, the Board granted respondent’s motion not to accept the complaint, granted complainant’s motion to modify the complaint, and accepted the complaint as modified by the order for hearing. On December 16, 2022, respondent filed its answer and affirmative defenses.

On November 10, 2022, the Board’s hearing officer conducted a status conference. The hearing officer reported that all parties participated and agreed to a status conference on January 5, 2023.

Between November 30, 2022, and January 12, 2023, complainant submitted to the Board materials including documents and email correspondence, each of which the Board placed into the record of this proceeding and posted in its Clerk’s Office Online (COOL) under this docket number PCB 23-14.

On January 5, 2023, the parties participated in a status conference with the Board’s hearing officer. The hearing officer directed the parties to file a proposed discovery schedule by January 27, 2023. The hearing officer’s order reported complainant’s statement “that he already has everything he needs to go to hearing.” The hearing officer scheduled a status conference on February 9, 2023.

On January 27, 2023, respondent timely filed a proposed scheduling and discovery order. Complainant did not file a proposed discovery schedule.

On February 9, 2023, the complainant responded to an email supplying a telephone number for the scheduled status conference. The Board placed his response into its record and into COOL. Complainant’s response included the statement that “no further hearing can take

place as I don't have the appropriate info to petition the government." The hearing officer's order reported that the scheduled telephonic status conference took place but that "[c]omplainant did not appear."

The hearing officer's order established a discovery schedule with the beginning of fact discovery by February 27, 2023; disclosure of complainant's expert witnesses by March 27, 2023; disclosure of complainant's fact witnesses by March 27, 2023; complainant to provide expert report to respondent by March 27, 2023; parties to serve requests for production of documents by May 15, 2023; and parties to serve request for admissions and written interrogatories by May 15, 2023. The hearing officer also scheduled a status conference on April 20, 2023.

The status conference took place as scheduled on April 20, 2023. The hearing officer's order reported that complainant did not appear and did not respond to a voice mail requesting a telephone or email response. Respondent reported that the complainant had failed to forward any discovery and that it had not been in contact with him. The hearing officer scheduled a status conference on June 29, 2023.

On June 21, 2023, respondent filed a motion to dismiss for want of prosecution (Mot.).

The status conference took place as scheduled on June 29, 2023. The hearing officer reported that complainant was provided a telephone number for the scheduled conference but did not appear. The hearing officer scheduled a status conference for September 13, 2023, which the hearing officer re-scheduled for September 25, 2023.

On June 30, 2023, complainant responded to the motion to dismiss (Resp.). On July 21, 2023, respondent filed a reply memorandum in support of its motion. Respondent also filed affidavit on July 21, 2023<sup>1</sup>. On July 28, 2023, respondent filed a statement on witness disclosures.

On September 25, 2023, the parties participated in the scheduled status conference. The hearing officer's order directed complainant to "file a written status report outlining his potential filings in the federal court on or before October 6, 2023." On September 25, 2023, complainant filed a "status update" reporting in part that he "will also be pursuing a Federal Civil Lawsuit against Respondent seeking injunctive relief and monetary damages in the amount of \$40,000,000."

Also on September 25, 2023, complainant filed a motion to amend the complaint (Mot. Amend). On October 24, 2023, respondent filed a brief opposing the motion to amend (Resp. Amend). Attached to the response were five exhibits:

Exh. A: Affidavit of David Beane;

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<sup>1</sup> Respondent's reply states that it filed an unsigned copy of the affidavit and would later file a notarized original and serve a copy on the complainant. The Board received the notarized copy on July 26, 2023, and posted it on COOL.

- Exh. B: Notice of Termination (NOT) for General Permit to Discharge Storm Water Associated with Construction Site Activities (certified June 20, 2023);
- Exh. C: Will/South Cook Soil & Water Conservation Commission Site observation and documentation (June 24, 2022);
- Exh. D: Respondent's Interrogatories and Request for Production of Documents (Apr. 27, 2023);
- Exh. E: Requests for Admission (Apr. 27, 2023).

The docket includes email on October 25, 2023, from complainant to respondent and the hearing officer stating that "the federal lawsuit is going to be filed for \$250,000,00 now . . ." The docket also includes a separate email on the same date from complainant to respondent and the hearing officer stating that "I will also be filing a \$1,000,000,000 lawsuit against ILEPA."

The hearing officer conducted a scheduled telephonic status conference on November 16, 2023. The hearing officer's report indicated that "[c]omplainant did not call in." On November 17, 2023, complainant emailed the hearing officer that he "wasn't able to participate in the call." He added that "I don't need anything. If they want to request discovery go ahead and I will get to it ASAP. There really isn't anything beyond the pictures I submitted. . . ."

The hearing officer conducted a status conference on January 18, 2024, the report of which states that "[n]either party appeared." On the same day, the Board's Clerk docketed email from complainant.

On January 19, 2024, respondent submitted to the Board a document it entitled notice of complainant's failure to abide by Board orders. On January 30, 2024, respondent filed its response to complainant's email.

The hearing officer conducted a status conference on March 21, 2024, the report of which states that "[c]omplainant did not appear."

Beginning April 8, 2024, Mr. Pratapas sent a series of emails containing harassing and inappropriate language directed at the hearing officer, Board staff, and other unknown individuals who are not parties to this case. On April 25, 2024, the hearing officers assigned to this matter cautioned Mr. Pratapas that "neither the Board Members nor the hearing officers will tolerate intemperate language and threats." April 25, 2024 Hearing Officer Order, citing Paul Christian Pratapas v. Lexington Trace LLC and Lexington Trace 2 LLC, PCB 24-42.

The Board electronically served Mr. Pratapas and counsel for Horizon the hearing officer order on April 25, 2024. Later that day, Mr. Pratapas sent a series of emails to the hearing officers and counsel for Horizon, culminating in an email to one of the hearing officers stating complainant would not participate in the Board's "kangaroo court". Those emails have been docketed in this matter.

On May 1, 2024, the hearing officer conducted a status conference, the report of which states that "complainant did not provide a telephone number and did not participate."

On May 7, 2024, Horizon filed a supplemental motion to dismiss (Supp. Mot.). The motion sets forth the procedural history of the case laid out above and asks the Board to dismiss the case for want of prosecution, as well as sending obscene and threatening emails.

By failing to participate in discovery, appear at status conferences, and for continuing to send highly inappropriate emails, Mr. Pratapas has unreasonably failed to comply with the directives of the Board's hearing officers' November 29, 2023, February 8, 2024 and April 25, 2024 orders. Under that order and the Board's authority to impose sanctions (35 Ill. Adm. Code 101.800), the Board grants Horizon's motion, dismisses this complaint with prejudice and closes the docket.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2022); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

<b>Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court</b>	
<b>Parties</b>	<b>Board</b>
Paul Christian Pratapas 545 N. Mendenhall Road #8 Memphis, TN 38117 <a href="mailto:Paulpratapas@aol.com">Paulpratapas@aol.com</a>	Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 E. Van Buren Street Suite 630 Chicago, Illinois 60605 <a href="mailto:Don.Brown@illinois.gov">Don.Brown@illinois.gov</a>
Jon Micah Goeller Husch Blackwell LLP 120 S. Riverside Plaza Suite 2200 Chicago, IL 60606	
Richard J. Lewandowski Husch Blackwell LLP 33 East Main Street Suite 300 Madison, WI 53703	

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 6, 2024, by a vote of 4-0.

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

Don A. Brown, Clerk  
Illinois Pollution Control Board