

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )
ex rel. LISA MADIGAN, Attorney )
General of the State of Illinois, )
Complainant, )
v. )
MOHAMMAD AKRABAWI, )
d/b/a DEERFIELD CROSSINGS, LLC, )
Respondent. )

RECEIVED
CLERK'S OFFICE
AUG 26 2009
STATE OF ILLINOIS
Pollution Control Board

PCB NO. 09-131
(Enforcement - Water)

NOTICE OF FILING

To: Zemeheret Bereket-AB Division Chief of Environmental Illinois Pollution Control Board
Assistant Attorney General Enforcement Attn: Clerk
Environmental Bureau Office of the Attorney General James R. Thompson Center
69 West Washington Street 69 West Washington Street 100 West Randolph Street
18th Floor 18th Floor Suite 11-500
Chicago, Illinois 60602 Chicago, Illinois 60602 Chicago, Illinois 60601
(312) 814-3816 (312) 814-3816

PLEASE TAKE NOTICE that this 26th day of August, 2009, I filed with the Office of the Clerk of the Illinois Pollution Control Board Respondent's Answer to Petitioner's Complaint, Notice of Filing, and a Certificate of Service on behalf of Respondent Mohammad Akrabawi, d/b/a Deerfield Crossing, LLC, a copy of which is attached and herewith served upon you.

Respectfully submitted,

MOHAMMAD AKRABAWI,
d/b/a DEERFIELD CROSSINGS, LLC

By: [Signature]
Francis X. Lyons
Allyson Wilcox Olson
Bryan Cave LLP
161 North Clark Street
Suite 4300
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ANSWER TO COMPLAINT

Respondent, MOHAMMAD AKRABAWI, d/b/a DEERFIELD CROSSINGS, LLC
("Respondent") hereby responds to the Complaint of the PEOPLE OF THE STATE OF
ILLINOIS, ex rel. LISA MADIGAN, Attorney General of the State of Illinois, as follows:

COUNT I

CAUSE, THREATEN OR ALLOW WATER POLLUTION

1. This Complaint is brought on behalf of the PEOPLE OF THE STATE OF
ILLINOIS, ex rel. LISA MADIGAN, Attorney General of the State of Illinois, on her own motion
and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the
terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS
5/31 (2006).

Response: Respondent states that 415 ILCS 5/31 (2006) speaks for itself. Respondent
does not have sufficient information to form a belief as the remaining factual allegations in
paragraph 1, and Respondent thus denies the same. Moreover, to the extent that paragraph 1
contains a legal conclusion, no response is required.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2006), and charged, *inter alia*, with the duty of enforcing the Act. The Illinois EPA is further charged with the duty to abate violations of the National Pollutant Discharge Elimination System (“NPDES”) Permit Program under the Federal Clean Water Act (“CWA”), 33 U.S.C. §1342(b)(7).

**Response:** Respondent admits that the Illinois Environmental Protection Agency (“Illinois EPA”) is a state agency. Respondent further states that 415 ILCS 5/4 (2006) and 33 U.S.C. §1342(b)(7) speak for themselves, and no response is required.

3. At all times relevant to the complaint, RESPONDENT, Mohammad Akrabawi, d/b/a Deerfield Crossings LLC, owned and operated Deerfield Crossings, LLC (“LLC”) which is the owner/developer of Deerfield Crossings Subdivision (“Site”). The Site is 147 acres in size. The Site is located at the southeast quadrant of the intersection of Illinois Route 23 and U.S. Route 30 on the east side of the Village of Waterman, DeKalb County, Illinois. The closest receiving stream to the Site is Somonauk Creek.

**Response:** Respondent admits that it is the current owner and operator of Deerfield Crossings, LLC, which is the owner/developer of Deerfield Crossings Subdivision. Respondent further admits that the site is approximately 147 acres in size, located in the vicinity of the southeast quadrant of the intersection of Illinois Route 23 and U.S. Route 30 on the east side of the Village of Waterman in DeKalb County, Illinois. Respondent does not have sufficient information to form a belief as the remaining factual allegations in paragraph 3, and Respondent thus denies the same.

4. On March 20, 2006, the Illinois EPA received a Notice of Intent for general permit to discharge storm water from construction site activities from Mohammad Akrabawi for the Deerfield Crossings Site.

**Response:** Respondent admits that on March 10, 2006 it sent the Illinois EPA a Notice of Intent for general permit to discharge storm water from construction site activities from Mohammad Akrabawi for the Deerfield Crossings Site.

5. On April 19, 2006, the Illinois EPA issued to Deerfield Crossings Subdivision a notice of coverage for storm water discharge associated with construction site activities NPDES Permit No. ILR10F194.

**Response:** Respondent admits the factual allegations contained in paragraph 5.

6. On March 21, 2007, the Illinois EPA, Rockford Regional Office inspected the Site and observed the following:

- (a) the letter granting coverage under the NPDES general storm water permit was not posted for public viewing at the Site as required by the permit;
- (b) the Site lacked the proper sediment stabilization required in the NPDES general storm water permit;
- (c) the berms of the detention basin located on the northern portion of the Site, and the discharge channel leading from the basin both lacked stabilization;
- (d) storm water discharge was leaving the basin, flowing through a culvert under railroad tracks to a roadside ditch and into Somonauk Creek;

- (e) a portion of the silt fence along the western perimeter of the Site was down; and,
- (f) a portion of the silt fence on the eastern perimeter was down and water was flowing off-site, over the downed silt fence into an adjacent farm.

**Response:** Respondent denies the allegations contained in paragraph 6.

7. On June 27, 2007, the Illinois EPA issued a violation notice (“VN”) to Respondent citing failure to comply with terms and conditions of the NPDES general storm water permit and storm water violations.

**Response:** Respondent admits that on or about June 27, 2007, the Illinois EPA issued it a VN. Respondent denies that it failed to comply with terms and conditions of the NPDES general storm water permit and further denies that any storm water violations occurred at the Site.

8. On July 20, 2007, Respondent responded to the VN letter by submitting his Compliance Commitment Agreement (“CCA”).

**Response:** Respondent admits that allegations contained in paragraph 8.

9. On August 22, 2007 the Illinois EPA rejected the CCA due to the nature and seriousness of the violations.

**Response:** Respondent admits that the Illinois EPA rejected the CCA. Respondent does not have sufficient information to form a belief as the remaining factual allegations in paragraph 9, and Respondent thus denies the same.

10. On September 13, 2007, the Illinois EPA conducted a brief follow-up inspection of the Site and observed that the detention outlet from the north detention pond was overgrown with

vegetation, observed erosion in the ground sloping toward the silt fence, the silt fence on the south side of the Site was overgrown with vegetation and the Site as a whole was sparsely covered with weeds rather than proper ground cover. The Site was not properly stabilized.

**Response:** Respondent admits that on or about September 13, 2007, the Illinois EPA conducted a follow-up inspection of the Site. Respondent denies all remaining factual allegations in paragraph 10.

11. On February 19, 2008, the Illinois EPA sent a notice of intent to pursue legal action (“NIPLA”) letter to Respondent.

**Response:** Respondent admits that sometime after February 19, 2008, it received from the Illinois EPA the NIPLA letter. In so admitting, Respondent does not admit the truth or veracity of any the allegations or conclusions set forth in the NIPLA.

12. On May 5, 2008, the Illinois EPA conducted a third inspection of the Site and again observed that the Site was not properly stabilized and that some storm sewer inlets were choked with vegetation that had been carried to the inlet by storm water. Sediment controls were not maintained and ground cover was lacking. The detention pond outlet was “heavily silted” and weeds were growing out of the grated outlet.

**Response:** Respondent admits that on or about May 5, 2008, the Illinois EPA conducted a third inspection of the Site. Respondent denies all remaining factual allegations in paragraph 12.

13. Section 12(a) of the Act, 415 ILCS 5/12(a) (2006), provides as follows:

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, whether alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

**Response:** The Section of the Act cited in paragraph 13 speaks for itself and, therefore, no response is required.

14. Section 3.315 of the Act, 415 ILCS 5/3.315 (2006), provides as follows:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency or any other legal entity, or their legal representative, agent or assigns.

**Response:** The Section of the Act cited in paragraph 14 speaks for itself and, therefore, no response is required.

15. Mr. Mohammad Akrabawi, an individual, and Deerfield Crossings LLC are both a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2006).

**Response:** Paragraph 15 consists of a legal conclusion to which no response is required.

16. Section 3.545 of the Act, 415 ILCS 5/3.545 (2006), provides as follows:

“WATER POLLUTION” is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, as will or likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety, or welfare, or domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

**Response:** The Section of the Act cited in paragraph 16 speaks for itself and, therefore, no response is required.

17. Section 3.550 of the Act, 415 ILCS 5/3.550 (2006), provides as follows:

“WATERS” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon the State.

**Response:** The Section of the Act cited in paragraph 17 speaks for itself and, therefore, no response is required.

18. The detention ponds, discharge channels, and Somonauk Creek are “waters,” as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2006).

**Response:** Paragraph 18 consists of a legal conclusion to which no response is required.

19. Section 3.165 of the Act, 415 ILCS 5/3.165 (2006), provides as follows:

“CONTAMINANT” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

**Response:** The Section of the Act cited in paragraph 19 speaks for itself and, therefore, no response is required.

20. The silt-laden storm water runoff from the Site that flowed into the detention ponds and eventually into Somonauk Creek is a “contaminant,” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2006).

**Response:** Paragraph 20 consists of a legal conclusion to which no response is required.

21. The discharge of contaminants, such as silt-laden runoff, from the Site into waters of the State, constitutes “water pollution,” as that term is defined by Section 3.545 of the Act, 415 ILCS 5/3.545 (2006).



**Response:** Paragraph 21 consists of a legal conclusion to which no response is required.

22. By allowing disturbed soils to remain unstabilized and without adequate erosion control protection, Respondent caused, threatened or allowed the discharge of contaminants, into the environment.

**Response:** Paragraph 22 consists of a legal conclusion to which no response is required. To the extent a response is required, Respondent denies the factual allegations set forth in paragraph 22.

23. By causing, threatening or allowing discharge of contaminants into the detention pond, discharge channels and Somonauk Creek, Respondent caused, threatened or allowed water pollution in Illinois, in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2006).

**Response:** Paragraph 23 consists of a legal conclusions to which no response is required. To the extent a response is required, Respondent denies the factual allegations set forth in paragraph 23.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order in favor of Complainant and against Respondent with respect to this Count I:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2006);

3. Ordering Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2006).

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) each for each and every violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) against the Respondent for each day of violation;

5. Ordering Respondent to implement adequate erosion control protection measures;

6. Ordering Respondent to pay all costs including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

7. Granting such relief as the Board deems appropriate and just.

**Response:** Paragraphs 1 through 7 of the Prayer for Relief contain legal conclusions and requests for relief to which no response is required. Respondent denies that Petitioner is entitled to the relief requested.

## COUNT II

### CREATING A WATER POLLUTION HAZARD

1-22. Complainant realleges and incorporates by reference herein paragraph 1 through 22 of Count I as paragraphs 1 through 22 of this Count II.

**Response:** Respondent incorporates by reference its responses to paragraph 1 through 22 of Count I as if fully set forth herein.

23. Section 12(d) of the Act, 415 ILCS ILCS 5/12(d) (2006), provides as follows:

No person shall:

\* \* \* \*

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

**Response:** The Section of the Act cited in paragraph 23 speaks for itself and, therefore, no response is required.

24. By grading the entire 147 acres site without first implementing adequate erosion controls, Respondent allowed silt to be deposited and remain exposed at the Site in such place and manner as to create a water pollution hazard, in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2006).

**Response:** Paragraph 24 consists of a legal conclusion to which no response is required. To the extent a response is required, Respondent denies the factual allegations set forth in paragraph 24.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count II:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2006);
3. Ordering Respondent to cease and desist from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2006);

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) each for each and every violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day for each day violation;

5. Ordering Respondent to implement adequate erosion control measures;

6. Ordering Respondent to pay all costs including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

7. Granting such relief as the Board deems appropriate and just.

**Response:** Paragraphs 1 through 7 of the Prayer for Relief contain legal conclusions and requests for relief to which no response is required. Respondent denies that Petitioner is entitled to the relief requested.

### COUNT III

#### VIOLATION OF NPDES PERMIT

1-22. Complainant realleges and incorporates by reference herein paragraph 1 through 22 of Count II as paragraphs 1 through 22 of this Count III.

**Response:** Respondent incorporates by reference its responses to paragraph 1 through 22 of Count II as if fully set forth herein.

23. Section 12(f) of the Act, 415 ILCS 5/12(f) (2006), provides as follows:

No person shall:

\* \* \* \*

- (f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

**Response:** The Section of the Act cited in paragraph 23 speaks for itself and, therefore, no response is required.

24. Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), titled, NPDES Permit Required, provides as follows:

- a. Except as in compliance with the provisions of the Act, Board regulations and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

**Response:** The Section of the Act cited in paragraph 24 speaks for itself and, therefore, no response is required.

25. Respondent's General NPDES Permit for Storm Water Discharges from Construction Site Activities No. ILR10F194, Part IV. D.2(a) provides in pertinent part as follows:

“ ... stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.”

**Response:** The Section of the General NPDES Permit for Storm Water Discharges from Construction Site Activities cited in paragraph 25 speaks for itself and, therefore, no response is required.

26. During the September 13, 2007 inspection, the Illinois EPA inspector observed that only two houses on the 147 acre site were built and the remaining areas of the Site remained dormant as of May 2008, and the Site was not stabilized even though construction activity had ceased. Stabilization measures should have been initiated within 14 days of the cessation of construction activities as required by NPDES Permit No. ILR10 Part IV.D.2(a).

**Response:** Paragraph 26 consists of a legal conclusion to which no response is required. To the extent a response is required, Respondent denies the factual allegations set forth in paragraph 26.

27. Failure to stabilize the Site as soon as possible in portions of the Site where construction activities had ceased is a violation of NPDES Permit ILR10F194 and also a violation of Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

**Response:** Paragraph 27 consists of a legal conclusion to which no response is required. To the extent a response is required, Respondent denies the factual allegations set forth in paragraph 27.

28. By failing to take stabilization measures as called for by NPDES Permit No. ILR10F194 Part IV.D.2(a), at its construction site, Respondent violated 35 Ill. Adm. Code 309.102(a) and Section 12(f) of the Act, 415 ILCS 5/12(f) (2006).

**Response:** Paragraph 28 consists of a legal conclusion to which no response is required. To the extent a response is required, Respondent denies the factual allegations set forth in paragraph 28.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order in favor of Complainant and against Respondent with respect to this Count III:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(f) of the Act, 415 ILCS 5/12(f)(2006), and 35 Ill. Adm. Code 309.102(a);
3. Ordering Respondent to cease and desist from any further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2006), Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a), and NPDES permit conditions;
4. Assessing a civil penalty of Ten Thousand Dollars (\$10,000.00) per day of violation for each day of violating Section 12(f) of the Act, 415 ILCS 5/12 (f) and 35 Ill. Adm. Code 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);
5. Ordering Respondent to implement adequate erosion control and protection measures;
6. Ordering Respondent to pay all costs including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
7. Granting such relief as the Board deems appropriate and just.

**Response:** Paragraphs 1 through 7 of the Prayer for Relief contain legal conclusions and requests for relief to which no response is required. Respondent denies that Petitioner is entitled to the relief requested.

#### COUNT IV

##### **NPDES PERMIT VIOLATION- FAILURE TO POST NOTIFICATION OF COVERAGE**

1-22. Complainant realleges and incorporates by reference herein paragraphs 1 through 22 of Count III as paragraphs 1 through 22 of this Count IV.

**Response:** Respondent incorporates by reference its responses to paragraph 1 through 22 of Count III as if fully set forth herein.

23. Part II.D.2 of NPDES Permit #ILR10F194 provides as follows:

A copy of the letter of notification of coverage or other indication that storm water discharges from the site are covered under an NPDES permit shall be posted at the site in a prominent place for public viewing (such as alongside a building permit).

**Response:** The Section of the General NPDES Permit for Storm Water Discharges from Construction Site Activities cited in paragraph 23 speaks for itself and, therefore, no response is required.

24. During the March 21, 2007 inspection, a copy of the letter of notification of coverage was not posted at the Site.

**Response:** Respondent denies the allegations contained in paragraph 24.

25. By failing to post the notification of coverage, Respondent violated Part II.D.2 of NPDES Permit No. ILR10F194.



**Response:** Paragraph 25 consists of a legal conclusions to which no response is required.

To the extent a response is required, Respondent denies the factual allegations set forth in paragraph 25.

26. By violating Part II.D.2 of the NPDES Permit No. ILRIOF194, Respondent also violated Section 12(f) of the Act, 415 ILCS 5/12(f)(2006) and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a).

**Response:** Paragraph 26 consists of a legal conclusion to which no response is required.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent Mohammad Akrabawi, on this Count IV:

1. Authorizing a hearing in this matter at which time the Respondent Mohammad Akrabawi will be required to answer the allegations herein;
2. Finding that the Respondent has violated Part II.D.2 of its NPDES Permit No. ILRIOF194 Permit, Section 12(f) of the Act, 415 ILCS 5/12(f)(2006), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);
3. Ordering the Respondent to cease and desist from any further violations of Part II.D.2 of its NPDES Permit No. ILR10F194, Section 12(f) of the Act, 415 ILCS 5/12(f)(2006), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);
4. Assessing against the Respondent, pursuant to Section 42(b)(1) of the Act, a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of each violation of Section 12(f) of the Act and 35 Ill. Adm. Code 309.102(a);

5. Ordering the Respondent, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2006), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

6. Granting such other relief as the Board deems appropriate and just.

**Response:** Paragraphs 1 through 7 of the Prayer for Relief contain legal conclusions and requests for relief to which no response is required. Respondent denies that Petitioner is entitled to the relief requested.

#### COUNT V

#### **NPDES PERMIT VIOLATION- FAILURE TO HAVE STORM WATER POLLUTION PREVENTION PLAN AVAILABLE AT THE SITE**

1-22. Complainant realleges and incorporates by reference herein paragraphs 1 through 22 of Count IV as paragraphs 1 through 22 of this Count V.

**Response:** Respondent incorporates by reference its responses to paragraph 1 through 22 of Count IV as if fully set forth herein.

23. Part IV.B.1 of NPDES Permit #ILR10F194 provides as follows:

Part IV. Storm water Pollution Prevention Plans

\* \* \* \*

The plan shall be signed in accordance with Part VLG (Signatory Requirements), and be retained on-site at the facility which generates the storm water discharge in accordance with Part VLE (Duty to Provide Information) of this permit.

**Response:** The Section of the General NPDES Permit for Storm Water Discharges from Construction Site Activities cited in paragraph 23 speaks for itself and, therefore, no response is required.

24. During the March 21, 2007 inspection, Respondent did not maintain on Site a copy of the Stormwater Pollution Prevention Plan as required by NPDES Permit.

**Response:** Respondent denies the allegations contained in paragraph 24.

25. By failing to retain and post at the Site a copy of the Stormwater Pollution Prevention Plan, Respondent Akrabawi violated Part IV.B.1 of NPDES Permit #ILR10F194.

**Response:** Paragraph 25 consists of a legal conclusion to which no response is required. To the extent a response is required, Respondent denies the factual allegations set forth in paragraph 25.

26. By violating Part IV.B.1 of NPDES Permit #ILR10F194, Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f)(2006) and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a)(2006).

**Response:** Paragraph 26 consists of a legal conclusions to which no response is required. WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, on this Count V:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

2. Finding that the Respondent has violated Part IV.B.1 of NPDES Permit #ILR10F194, Section 12(f) of the Act, 415 ILCS 5/12(f)(2006), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);

3. Ordering the Respondent to cease and desist from any further violations of Part IV.B.1 of the General Stormwater Permit, Section 12(f) of the Act, 415 ILCS 5/12(f)(2006), and Section 309.102(a) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 309.102(a);

4. Assessing against the Respondent, pursuant to Section 42(b)(1) of the Act, a civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of each violation of Section 12(f) of the Act and 35 Ill. Adm. Code 309.102(a);

5. Ordering the Respondent, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2006), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

6. Granting such other relief as the Board deems appropriate and just.

**Response:** Paragraphs 1 through 7 of the Prayer for Relief contain legal conclusions and requests for relief to which no response is required. Respondent denies that Petitioner is entitled to the relief requested.

DATE: August 26, 2009

Respectfully submitted,

MOHAMMAD AKRABAWI,  
d/b/a DEERFIELD CROSSINGS, LLC

By: 

Francis X. Lyons  
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Telephone: 312-602-5057  
Facsimile: 312-698-7457

**CERTIFICATE OF SERVICE**

I, Francis X. Lyons, an Attorney, do certify that I caused to be served on this 26<sup>th</sup> day of August 2009, the foregoing Notice of Filing, and an Answer to Complaint, upon:

Zemeheret Bereket-AB	Division Chief of Environmental	Illinois Pollution Control Board
Assistant Attorney General	Enforcement	Attn: Clerk
Environmental Bureau	Office of the Attorney General	James R. Thompson Center
69 West Washington Street	69 West Washington Street	100 West Randolph Street
18 <sup>th</sup> Floor	18 <sup>th</sup> Floor	Suite 11-500
Chicago, Illinois 60602	Chicago, Illinois 60602	Chicago, Illinois 60601
(312) 814-3816	(312) 814-3816	

via U.S. Mail by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 161 North Clark Street, Chicago, Illinois.

By:   
Francis X. Lyons