

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

ROLF SCHILLING, PAM SCHILLING and)
SUZZANE VENTURRA,)

Complainants,)

vs.)

PCB. No. 10-100

GARY D. HILL, VILLA LAND TRUST, an Illinois)
Land Trust, and PRAIRIE LIVING WEST, LLC,)

Respondents.)

ORIGINAL

ANSWER AND AFFIRMATIVE DEFENSES TO CITIZEN'S COMPLAINT

NOW COME the Respondents, Gary D. Hill, Villa Land Trust, an Illinois Land Trust, and Prairie Living West, LLC, by and through their attorneys, Winters, Brewster, Crosby and Schafer LLC, and for their Answer to Citizen's Complaint, hereby state as follows:

1. Respondents admit that Villa Land Trust is a land trust organized under the laws of the State of Illinois. Respondents admit that Respondent, Gary D. Hill, is the sole beneficial owner. Respondents deny that Villa Land Trust owns property located at 900 and/or 955 Villa Court, Carbondale, Jackson County, Illinois.
2. Respondents admit that Respondent, Gary D. Hill, is an individual who resides in Murphysboro, Jackson County, Illinois. Respondents deny that Gary D. Hill, as an individual, has a principal place of business. Respondents admit that Gary D. Hill is the beneficial owner of Villa Land Trust. Respondents deny that Gary D. Hill is the managing member of Respondent, Prairie Living West, LLC. Respondents admit that Complainants have attached a document titled "Illinois Environmental Protection Agency, Notice of Intent (NOI), General Permit to Discharge Storm Water, Construction Site Activities" to their Complaint as

Exhibit A. Respondents cannot either admit or deny what the document titled “Illinois Environmental Protection Agency, Notice of Intent (NOI), General Permit to Discharge Storm Water, Construction Site Activities” states, as it does not constitute an allegation against Respondents to which Respondents can respond, but rather, the document speaks for itself.

3. Respondents deny the allegations of Paragraph 3.
4. Respondents deny the allegations of Paragraph 4.
5. Respondents are without sufficient information to either admit or deny the allegations of Paragraph 5, but to the extent that a response is required, Respondents deny the allegations of Paragraph 5.
6. Respondents are without sufficient information to either admit or deny the allegations of Paragraph 6, but to the extent that a response is required, Respondents deny the allegations of Paragraph 6.
7. Respondents are without sufficient information to either admit or deny the allegations of Paragraph 7, but to the extent that a response is required, Respondents deny the allegations of Paragraph 7.
8. Respondents deny the allegations of Paragraph 8.
9. Respondents deny the allegations of Paragraph 9.
10. Respondents deny the allegations of Paragraph 10.
11. Respondents admit that a NPDES permit was sought and obtained from the Illinois Environmental Protection Agency (“IEPA”). Respondents admit that they submitted a Storm Water Pollution Prevention Plan to the IEPA for the Prairie

Living West project. Respondents admit that Complainants have attached a document titled "NPDES Permit No. ILR10, General NPDES Permit No. ILR10" to their Complaint as Exhibit B. Respondents admit that Complainants have attached a document they purport to be correspondence from the IEPA to Gary D. Hill dated February 23, 2009 to their Complaint as Exhibit C. Respondent cannot either admit nor deny what Exhibit C states, as it does not constitute an allegation against Respondents to which Respondents can respond, but rather, the document speaks for itself.

12. Respondents deny the allegations of Paragraph 12.
13. Respondents deny the allegations of Paragraph 13.
14. Respondents deny the allegations of Paragraph 14.
15. Respondents deny the allegations of Paragraph 15.
16. Respondents deny the allegations of Paragraph 16.
17. Respondents deny the allegations of Paragraph 17, including each and every subpart thereof.
18. Respondents deny the allegations of Paragraph 18, including each and every subpart thereof.
19. Respondents cannot either admit nor deny Paragraph 19, as said Paragraph contains a prayer for relief, and does not contain any allegations against Respondents to which Respondents can respond.

WHEREFORE, Respondents, Gary D. Hill, Villa Land Trust, an Illinois Land Trust, and Prairie Living West, LLC, respectfully request that the Board enter an order in favor of

Respondents, and for costs of suit, and such other and further relief as the Board deems proper.

WINTERS, BREWSTER, CROSBY and SCHAFFER LLC

BY: _____

Molly Wilson Dearing
Attorneys for Respondents
ARDC No. 6294101

AFFIRMATIVE DEFENSES TO CITIZEN'S COMPLAINT

NOW COME the Respondents, Gary D. Hill, Villa Land Trust, an Illinois Land Trust, and Prairie Living West, LLC , by and through their attorneys, Winters, Brewster, Crosby and Schafer LLC, and for their Affirmative Defenses to Citizen's Complaint, hereby state as follows:

AFFIRMATIVE DEFENSE I

1. Further answering and as an affirmative defense, Defendants state that Plaintiffs have failed to name an indispensable party, who has a legal or beneficial interest in the subject matter of this litigation and as such, this Board cannot proceed to a decision on the merits without naming said indispensable party.

AFFIRMATIVE DEFENSE II

2. Further answering and as an affirmative defense, the injuries and damages allegedly suffered in this action, which are denied, may have been caused in whole or in part by natural occurrences over which Respondents have no control and for which Respondents are not responsible.

AFFIRMATIVE DEFENSE III

3. Further answering and as an affirmative defense, the injuries and damages allegedly suffered in this action, which are denied, were caused in whole or in part

by the acts (wrongful or otherwise), negligence, sole fault, misuse, abuse, modification, alteration, omission, or fault of one or more persons or entities over whom Respondents exercise no control and for whom Respondents are not legally responsible, including, without limitation, Complainants.

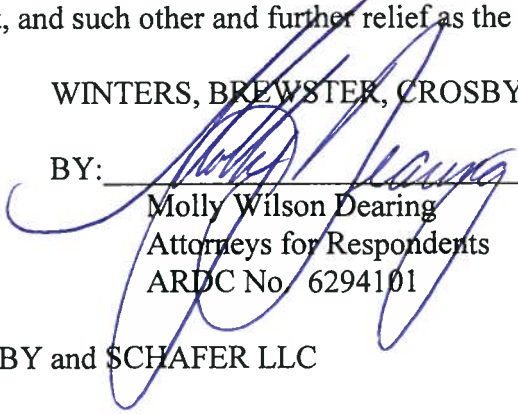
AFFIRMATIVE DEFENSE IV

4. Further answering and as an affirmative defense, Defendants have been and remain in compliance with the Illinois Environmental Protection Act, and have conducted and continue to conduct construction activities within the purview of their NPDES Permit.

WHEREFORE, Respondents, Gary D. Hill, Villa Land Trust, an Illinois Land Trust, and Prairie Living West, LLC, respectfully request that the Board enter an order in favor of Respondents, and for costs of suit, and such other and further relief as the Board deems proper.

WINTERS, BREWSTER, CROSBY and SCHAFFER LLC

BY: _____


Molly Wilson Dearing
Attorneys for Respondents
ARDC No. 6294101

WINTERS, BREWSTER, CROSBY and SCHAFFER LLC
Attorneys at Law
111 West Main, P.O. Box 700
Marion, IL 62959
Phone: (618)997-5611
Fax: (618)997-6522

CERTIFICATE OF MAILING

The undersigned certifies that a copy of the above and foregoing instrument was sent via facsimile and mailed by depositing the same in a U.S. Post Office Box in the City of Marion, Illinois, postage fully prepaid and addressed to:

Sorling, Northrup, Hanna, Cullen,
& Cochran, Ltd.
Stephen F. Hedinger and Brian D.
Jones, Of Counsel
Suite 800 Illinois Building
P O Box 5131
Springfield, IL 62705

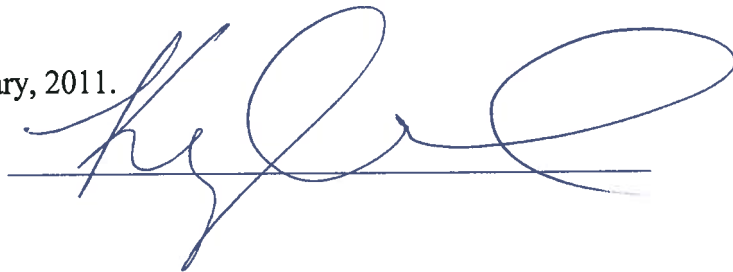
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Pollution Control Board

The undersigned certifies that a copy of the above and foregoing instrument was mailed by delivering the original and nine copies to UPS for overnight express delivery with postage fully paid in the City of Marion, Illinois to:

Mr. John T. Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, IL 60601

Ms. Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, IL 62794-9274

Dated this 6th day of January, 2011.



ORIGINAL

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Phone: (618) 997-5611
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WINTERS, BREWSTER, CROSBY AND SCHAFFER LLC

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January 6, 2011

STATE OF ILLINOIS -MAIL: winlaw@winterslaw.com
Pollution Control Board

* Also licensed in Missouri

Mr. John T. Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, IL 60601

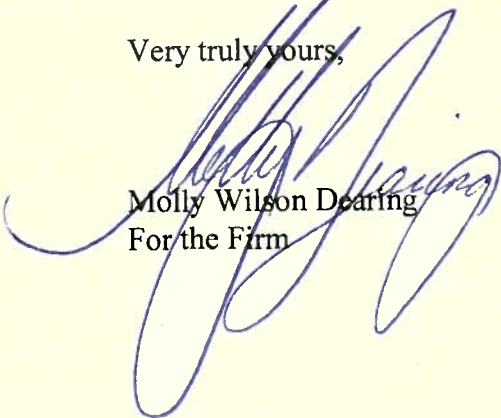
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RE: Prairie Living West/Clean Water Suit
Case No. 10-L-43; PCB No. 2010-100, IL Pollution Control Board; Jackson Co.
WBCS No. 10-185-JSB/TFC

Dear Clerk:

Enclosed you will find an original and nine (9) copies of Answer to Complaint in the above referenced matter. Please file the original(s) and return a file-stamped duplicate to me in the self-addressed, preposted envelope enclosed for this purpose.

Very truly yours,


Molly Wilson Dearing
For the Firm

MRD:kw

Enc.

cc: Mr. Stephen F Hedinger
Mr. Brian D Jones
Ms. Carol Webb