

**BEFORE THE POLLUTION CONTROL BOARD**

SUSAN M. BRUCE, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 HIGHLAND HILLS SANITARY DISTRICT, )  
 )  
 Respondent. )

No. 2015-139

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MAY 11 2015

STATE OF ILLINOIS  
Pollution Control Board



ORIGINAL

**OBJECTION TO MOTION TO DISMISS**

Complainant, SUSAN M. BRUCE, by her attorneys, HUCK BOUMA PC, objects to the motion of the respondent, HIGHLAND HILLS SANITARY DISTRICT, to dismiss her complaint.

In opposition to the motion, complainant states as follows:

1. Respondent's motion complains that the complaint omits the complainant's address, fails to allege specific dates of certain of the alleged discharges, and fails to describe the nature, duration, extent, and strength of the discharges.

2. The complainant inadvertently omitted her address when completing the complaint and inserting her attorney's address only. Of course, complainant's attorney also wanted to make sure that the district's attorneys made no attempt to communicate with the complainant directly. Even though the respondent is obviously aware of the complainant's address, the complainant concedes this point and proposes to file within such reasonable time as the commission determines an amended complaint alleging the complainant's address.

3. The district further complains that the complainant omitted in her complaint "specific dates of certain of the alleged discharges." Notably, the complainant alleged in her complaint the

specific dates of discharges in April, July, and August of 2013. However, as the respondent correctly notes, the complainant also alleged that backups occurred “twice in May 2013” and “three times in 2010.” The complainant believes that her allegations regarding the dates of the discharges meet the standard of advising respondent “of the extent and nature of the alleged violations to reasonably allow preparation of a defense.” However, the complainant is prepared, and proposes, to file an amended complaint with more specificity regarding the discharges in May of 2013 and in 2010, as well as any other discharges she can identify the specific dates of within such time as the board deems appropriate.

4. The district concedes that the complainant provided information on the extent of the backups on April 18, 2013 but complains that “the other eight alleged events are merely described as ‘additional backups.’” The district also complains that the complaint “provides no information on the duration of the April 18, 2013 backup or any of the ‘additional backups.’” The complainant believes that her allegations regarding the nature and duration of certain of the alleged offenses “advise [respondent] of the extent and nature of the alleged violations to reasonably allow preparation of a defense.” However, the complainant can, and proposes to, file an amended complaint within such reasonable time as the board deems appropriate, containing additional details on the nature and extent of the alleged discharges. While the respondent’s motion alleges, in heading III. a general deficiency in the allegations of the “strength” of the alleged discharges, the text of its motion does not complain about the absence of any allegations regarding the “strength” of the discharges. Nonetheless, in the amended complaint the complainant proposes to file, she will endeavor to describe the “strength” of the incident to the best of her ability, by, for example, describing the height of the geyser-like formations that occurred in connection with various instances

in particular plumbing fixtures, such as toilets, floor drains, sinks, shower drains, and the like.

5. The motion also complains about the request in the complaint to enforce the order of the board rendered against the respondent in case number PCB 79-72 brought by a previous owner of the home, Ramon Travieso. The complainant concedes that the board cannot enforce that order at the complainant's request and therefore does not object to that part of the motion. In any amended complaint the board sees fit to allow the complainant to file, she will omit any request that the board enforce that order.


6. Finally, the motion seeks dismissal because the complaint does not allege that the respondent "owns or operates a treatment works." Again, in any amended complaint the board sees fit to allow the complainant to file, the complainant will make appropriate allegations, based on a reasonable investigation, regarding the respondent's ownership or operation of "treatment works."

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WHEREFORE, complainant, SUSAN M. BRUCE, objects to the motion to dismiss and requests leave to file an amended complaint addressing the deficiencies raised in the motion to dismiss, such amended complaint to be filed within a time deemed reasonable by the board, and for all other relief deemed appropriate under the circumstances.

Respectfully submitted,

HUCK BOUMA PC



Lawrence A. Stein

Lawrence A. Stein  
**HUCK BOUMA PC**  
1755 South Naperville Road  
Wheaton, Illinois 60189  
Telephone (630) 221-1755  
Facsimile (630) 221-1756  
Attorney No. 6216903

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**CERTIFICATE OF MAILING**

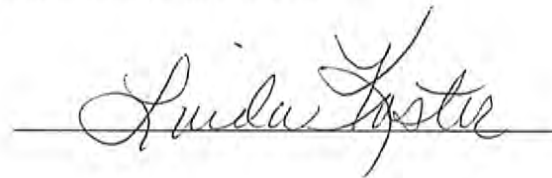
I, Linda Koster, state as follows under penalty of perjury this eighth day of May 2015:

1. I filed this *Objection to Motion to Dismiss* by placing it in an envelope with proper postage prepaid and plainly addressed to State of Illinois, Clerk of the Pollution Control Board, James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601.

2. I served this *Objection to Motion to Dismiss* by placing accurate copies of it in an envelope with proper postage prepaid and by certified mail, return receipt requested, and plainly addressed to Joseph R. Podlewski, Jr., Esq., Heidi E. Hanson, Esq., Podlewski & Hanson P.C., 4721 Franklin Avenue, Suite 1500, Western Springs, Illinois 60558.

3. I deposited the envelopes in the United States mail at Wheaton, Illinois on May 8, 2015, before 4:30 p.m.

4. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.

A handwritten signature in cursive script, reading "Linda Koster", is written over a horizontal line.