

FORMAL COMPLAINT

Before the Illinois Pollution Control Board

Philip Carper)
111 E. South St., P O Box 12)
Seymour Illinois, 61875)

[Insert your name(s) in the space above])

Complainant(s),)

v.)

PCB 20 -
[For Board use only]

Topflight Grain Cooperative)
420 W. Marion St.)
Monticello Illinois, 61856)

[Insert name(s) of alleged polluter(s) in the space above])

Respondent(s))

Note to the Complainant: If you do not use this Formal Complaint form and instead draft and type your own, it must contain all of the information requested by this form. All items must be completed. If there is insufficient space to complete any item, you may attach additional sheets, specifying the number of the item you are completing. Once you have completed the Formal Complaint, the Notice of Filing, and the Documentation of Service, you must "file" these three documents with the Clerk of the Board and "serve" a copy of each document on each respondent. Specific requirements for the filing, service, and contents of these documents are set forth in the Board's procedural rules (35 Ill. Adm. Code 101, 103) and addressed in the explanatory materials accompanying this form.

1. Your Contact Information

Name: **Philip E Carper**
Street Address: 111 E South ST, P O Box 12
Seymour Illinois, 61875
County: Champaign
State: Illinois
Phone Number: (217)722-5146

2. Place where you can be contacted during normal business hours (if different from above)

Name: _____
Street Address: _____
County: _____
State: _____
Phone Number: () -

3. Name and address of the respondent (alleged polluter)

Name: **Topflight Grain Cooperative**
Street Address: 420 W Marion St.
Monticello IL, 61856
County: Piatt
State: Illinois
Phone Number: (217)762-2163

4. Describe the type of business or activity that you allege is causing or allowing pollution (e.g., manufacturing company, home repair shop) and give the address of the pollution source if different than the address above.

This is a grain elevator.
202 North Main Street
Seymour Illinois,61875

5. List specific sections of the Environmental Protection Act, Board regulations, Board order, or permit that you allege have been or are being violated.

Illinois noise control act; Title 35; Environmental Protection;
Subtitle H; Noise; Chapter 1; Pollution Control Board;
Section 900.102, Prohibition of noise pollution;
415ILCS; 5/23 Legislation Declaration;
415ILCS; 5/24; Section 24.

6. Describe the type of pollution that you allege (e.g., air, odor, noise, water, sewer back-ups, hazardous waste) and the location of the alleged pollution. Be as specific as you reasonably can in describing the alleged pollution.

Ear piercing screeching and squealing sound from overhead drag line conveyers.
Hum and noise from aeration fans and growling drive motors.

7. Describe the duration and frequency of the alleged pollution. Be as specific as you reasonably can about when you first noticed the alleged pollution, how frequently it occurs, and whether it is still continuing (include seasons of the year, dates, and times of day if known).

The noise is year round. From 8 hours a day to 24 hours a day.
Noises started 9/21/2018 at 7 PM. when a new grain bin was put in to service. This is is still continuing today .

8. Describe any bad effects that you believe the alleged pollution has or has had on human health, on plant or animal life, on the environment, on the enjoyment of life or property, or on any lawful business or activity.

The excessive noise disrupts my sleep, the quiet enjoyment of our home, of 42 years, yard and properties. This offends the senses and creates a public nuisance. This endangers my physical and emotional health and well being.

Noise is a known irritant and unwanted trespass and nuisance.

9. Describe the relief that you seek from the Board (e.g., an order requiring that the respondent stop polluting, take pollution abatement measures, perform a cleanup, reimburse cleanup costs, change its operation, or pay a civil penalty (note that the Board cannot order the respondent to pay your attorney fees or any out-of-pocket expenses that you incur by pursuing an enforcement action)).

The relief I seek is for Topflight to cease and desist the nuisance and noise pollution with out more delays in the town of Seymour Illinois.

10. Identify any identical or substantially similar case you know of brought before the Board or in another forum against this respondent for the same alleged pollution (note that you need not include any complaints made to the Illinois Environmental Protection Agency or any unit of local government).

PCB2019-059 Leindl v. Hartsburg Grain Co.

PCB16-68 Gill v. Carlton Farmers Elevator

PCB-91-128 Druen + Pirtle v. James Leonard grain drying

PCB 88-199 State of IL. v. Seeger Grain, inc.

PCB 95-73 Manarchy v. JJJ Associates, Inc. WL 419475

PCB 94-196 Hoffman v. City of Columbia, WL633343

PCB 91-195 Thomas v. Carry Companies of Illinois

11. State whether you are representing (a) yourself as an individual or (b) your unincorporated sole proprietorship. Also, state whether you are an attorney and, if so, whether you are licensed and registered to practice law in Illinois. (Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. Also, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, an individual who is not an attorney is allowed to represent (a) himself or herself as an individual or (b) his or her unincorporated sole proprietorship, though the individual may prefer having attorney representation.)

Myself as an individual at this time.
I have contacted an attorney.

12. Philip Carper
(Complainant's signature)

CERTIFICATION
(optional but encouraged)

I, PHILIP CARPER, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

Philip Carper
(Complainant's signature)

Subscribed to and sworn before me

this 5th day

of October, 2021

Carrie L. Henry
Notary Public



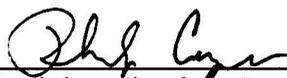
My commission expires: January 17th 2023

NOTICE OF FILING

Note to the Complainant: This Notice of Filing must accompany the Formal Complaint and the Documentation of Service. Once you have completed the Notice of Filing, the Formal Complaint, and the Documentation of Service, you must file these three documents with the Board's Clerk *and* serve a copy of each document on each respondent.

Please take notice that today I, Philip Carper, filed with the Clerk of the Illinois Pollution Control Board (Board) a Formal Complaint, a copy of which is served on you along with this Notice of Filing. You may be required to attend a hearing on a date set by the Board.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney. 35 Ill. Adm. Code 103.204(f).


Complainant's signature
Street P O Box 12, 111 E South St.
City, state, zip code Seymour IL., 61875
Date 10/05/2021

INFORMATION FOR RESPONDENT RECEIVING FORMAL COMPLAINT

The following information has been prepared by the Board for general informational purposes only and does not constitute legal advice or substitute for the provisions of any statute, rule, or regulation. Information about the Formal Complaint process before the Board is found in the Environmental Protection Act (Act) (415 ILCS 5) and the Board's procedural rules (35 Ill. Adm. Code 101, 103). These can be accessed on the Board's website (www.ipcb.state.il.us). The following is a summary of some of the most important points in the Act and the Board's procedural rules.

Board Accepting Formal Complaint for Hearing; Motions

The Board will not accept this Formal Complaint for hearing if the Board finds that it is either "duplicative" or "frivolous" within the meaning of Section 31(d)(1) of the Act (415 ILCS 5/31(d)(1)) and Section 101.202 of the Board's procedural rules (35 Ill. Adm. Code 101.202 (definitions of the terms "duplicative" and "frivolous")). "Duplicative" means the complaint is identical or substantially similar to a case brought before the Board or another forum. See 35 Ill. Adm. Code 103.212(a) and item 10 of the Formal Complaint.

"Frivolous" means that the Formal Complaint seeks relief that the Board does not have the authority to grant or fails to state a cause of action upon which the Board can grant relief. For example, the Board has the authority to order a respondent to stop polluting and pay a civil penalty, to implement pollution abatement measures, or to perform a cleanup or reimburse cleanup costs. The Board does not have the authority, however, to award attorney fees to a citizen complainant. See 35 Ill. Adm. Code 103.212(a) and items 5 through 9 of the Formal Complaint.

If you believe that this Formal Complaint is duplicative or frivolous, you may file a motion with the Board, within 30 days after the date you received the complaint, requesting that the Board not accept the complaint for hearing. The motion must state the facts supporting your belief that the complaint is duplicative or frivolous. Memoranda, affidavits, and any other relevant documents may accompany the motion. See 35 Ill. Adm. Code 101.504, 103.212(b). If you need more than 30 days to file a motion alleging that the complaint is duplicative or frivolous, you must file a motion for an extension of time within 30 days after you received the complaint. A motion for an extension of time must state why you need more time and the amount of additional time you need. Timely filing a motion alleging that the Formal Complaint is duplicative or frivolous will stay the 60-day period for filing an Answer to the complaint. See 35 Ill. Adm. Code 103.204(e), 103.212(b); see also 35 Ill. Adm. Code 101.506 (generally, all motions to strike, dismiss, or challenge the sufficiency of any pleading must be filed within 30 days after service of the challenged document).

The party making a motion must "file" the motion with the Board's Clerk and "serve" a copy of the motion on each of the other parties to the proceeding. The Board's filing and service requirements are set forth in its procedural rules (35 Ill. Adm. Code 101.300, 101.302, 101.304), which are located on the Board's website (www.ipcb.state.il.us).

If you do not file a motion with the Board within 30 days after the date on which you received the Formal Complaint, the Board may find that the complaint is not duplicative or frivolous and accept the case for hearing without any input from you. The Board will then assign a hearing officer who will contact you to schedule times for holding telephone status conferences and a hearing. See 35 Ill. Adm. Code 103.212(a).

Answer to Complaint

You have the right to file an Answer to this Formal Complaint within 60 days after you receive the complaint. If you timely file a motion alleging that the complaint is duplicative or frivolous, or a motion to strike, dismiss, or challenge the sufficiency of the complaint, then you may file an Answer within 60 days after the Board rules on your motion. See 35 Ill. Adm. Code 101.506, 103.204(d), (e), 103.212(b).

Failing to file an Answer to the Formal Complaint within 60 days after you were served with the complaint may have severe consequences. Failure to timely file an Answer will mean that all allegations in the Formal Complaint will be taken as if you admitted them

for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office, or an attorney. See 35 Ill. Adm. Code 103.204(f).

Necessity of an Attorney

Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. In addition, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, even if an individual is not an attorney, he or she is allowed to represent (1) himself or herself as an individual or (2) his or her unincorporated sole proprietorship. See 35 Ill. Adm. Code 101.400(a). Such an individual may nevertheless wish to have an attorney prepare an Answer and any motions or briefs, and present a defense at hearing.

Costs

In defending against this Formal Complaint, you are responsible for your attorney fees, duplicating charges, travel expenses, witness fees, and any other costs that you or your attorney may incur. The Board requires no filing fee to file with the Board your Answer or any other document in the enforcement proceeding. The Board will pay its own hearing costs (e.g., hearing room rental, court reporting fees, hearing officer expenses).

If you have any questions, please contact the Clerk's Office at (312) 814-3461.

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY		
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee <i>X DRAKINS</i></p> <p>B. Received by (Printed Name) <i>COVID 19</i></p> <p>C. Date of Delivery <i>10-7-21</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>		
<p>1. Article Addressed to: <i>DERRICK BRUHN TOPPLIGHT ELEVATOR 420 W MARION ST MONTECLO IL 61856</i></p> <div style="text-align: center;">  9590 9402 3994 8079 7240 62 </div>	<p>3. Service Type</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) </td> <td style="width: 50%; border: none;"> <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery </td> </tr> </table>	<input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	<input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	<input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery		
<p>2. Article Number (Transfer from service label) <i>7018 0680 0000 0479 6709</i></p>	<p style="text-align: right;">Domestic Return Receipt</p>		
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>			

_____ [month/date], 20___. [Attach the other person's signed affidavit or declaration showing the date of delivery.]

E. _____ Personal service and another person made or will make the personal delivery. However, the affidavit of service signed by the other person (or the declaration of service signed by the process server) who made or will make the personal delivery is not available to me at this time. On _____ [month/date], 20__, by the time of __:__ AM/PM, at

[address where you provided the documents to the person making the personal delivery], copies of the attached Formal Complaint and Notice of Filing were provided to _____ [name of the person making the personal delivery], with the respondent's address appearing on the envelope or package containing these documents, and with proper delivery charge prepaid. [Within seven days after it becomes available to you, file with the Board's Clerk the affidavit or declaration of service—containing the signature of the person who made personal delivery and showing the date of delivery—and identify the Formal Complaint to which that affidavit or declaration corresponds.]

RESPONDENT'S ADDRESS:

Name Topflight Grain Cooperative

Street 420 W Marion St.

City, state, zip code Monticello IL. 61856

(list each respondent's name and address if multiple respondents)

Phil Capen
Complainant's signature

Street P O Box 12, 111 E South St.

City, state, zip code Seymour IL. 61875

Date 10/5/2021

Subscribed to and sworn before me

this 5th day

of October, 2021.

Carrie L. Henry
Notary Public



My commission expires: January 17th, 2023