

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PHILIP CARPER,	)	
	)	
Complainant,	)	
	)	
V.	)	PCB 2022-012
	)	
TOPFLIGHT GRAIN COOPERATIVE,	)	
	)	
Respondent.	)	

**ANSWER TO FORMAL COMPLAINT**

NOW COMES, Respondent, TOPFLIGHT GRAIN COOPERATIVE, by and through its counsel, Heyl, Royster, Voelker & Allen, P.C., and for its ANSWER TO FORMAL COMPLAINT, states as follows:

**ANSWER**

1. Complainant's Contact Information

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

**ANSWER:** On information and belief, Respondent admits the allegations contained in Paragraph 1.

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

**ANSWER:** Not applicable.

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

**ANSWER:** Respondent admits that the address and phone number contained in this Paragraph 2 are accurate.

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

**ANSWER:** Respondent admits that it has business operations at 202 North Main Street, Seymour, Illinois 61875, which such business operations include a grain elevator.

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.

**ANSWER:** Respondent admits that Complainant has generally set forth references to Illinois statutes and regulations. Respondent denies that it has violated any of the statutes or regulations set forth in Paragraph 5 and further demands strict proof of all allegations.

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.

**ANSWER:** Respondent denies the allegations in Paragraph 6 and further demands strict proof of all allegations.

7. Describe the duration and frequency of the alleged pollution. Be as specific as you reasonably can about when you first notice 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 still continuing today.

**ANSWER:** Respondent admits that it placed a new grain bin into service in September 2018. Respondent denies any remaining allegations in Paragraph 7 and further demands strict proof of all remaining allegations.

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.

**ANSWER:** Respondent denies the allegations in Paragraph 8 and further demands strict proof of all allegations.

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 our attorney fees or any out-of-pocket expense that you incur by pursuing an enforcement action).

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

**ANSWER:** Respondent denies the allegations in Paragraph 9 and further demands strict proof of all allegations.

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, WL 633343
PCB 91-195	Thomas v. Carry Companies of Illinois

**ANSWER:** Respondent denies that any of the cases cited were brought against Respondent and moves to strike these allegations.



HEYL, ROYSTER, VOELKER & ALLEN, P.C.  
105 West Vandalia, Suite 100  
Edwardsville, IL 62025-0467  
Telephone 618.656.4646  
Facsimile 309.420.0402  
PRIMARY E-MAIL: [edwecf@heyloyster.com](mailto:edwecf@heyloyster.com)  
SECONDARY E-MAIL #2: [abarron@heyloyster.com](mailto:abarron@heyloyster.com)

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**CERTIFICATE OF SERVICE/NOTICE OF ELECTRONIC FILING**

I, the undersigned attorney at law, hereby certify that I have filed with the Office of the Clerk of the Illinois Pollution Control Board an Answer to formal Complaint. I further hereby certify that on December 2, 2021, I served true and correct copies of an Answer to Formal Complaint upon the persons and by the methods pursuant to the service list hereto attached.

TOPFLIGHT GRAIN COOPERATIVE, Respondent

BY:           /s/ Ann C. Barron            
HEYL, ROYSTER, VOELKER & ALLEN, P.C.  
Ann C. Barron, ARDC #6224429

DATED: December 2, 2021

HEYL, ROYSTER, VOELKER & ALLEN, P.C.  
105 West Vandalia, Suite 100  
Edwardsville, IL 62025-0467  
Telephone 618.656.4646  
Facsimile 309.420.0402  
PRIMARY E-MAIL: [edwecf@heyloyster.com](mailto:edwecf@heyloyster.com)  
SECONDARY E-MAIL #2: [abarron@heyloyster.com](mailto:abarron@heyloyster.com)

**SERVICE LIST**

Don Brown, Clerk  
Illinois Pollution Control Board  
100 W. Randolph, Suite 11-500  
Chicago, IL 60601  
[Don.brown@illinois.gov](mailto:Don.brown@illinois.gov)  
(Electronic Filing, Email)

Phillip R. Van Ness  
Webber & Thies, P.C.  
202 Lincoln Square  
P.O. Box 189  
Urbana, IL 61801  
[pvanness@webberthies.com](mailto:pvanness@webberthies.com)  
(Electronic Filing, Email)

Phillip E. Carper  
111 E South ST, P.O. Box 12  
Seymour, Illinois 61875  
[Philc72@aol.com](mailto:Philc72@aol.com)  
(Electronic Filing, Email, Regular Mail)