

jeopardizing their ability to relax, which in turn adversely affects their health. Comp. at 3. The complaint further alleges that the pollution occurs year-round but increases during harvest and shipping. *Id.* at 3. The complaint does not set forth any provisions of the Act, regulations, permits, or Board orders that this alleged conduct violates.

Absent this information, the Board is constrained to find that the complaint is, by definition, frivolous because it fails to state a cause of action on which the Board can grant relief. This finding does not address the merits of the Leindls' complaint or whether they would be entitled to relief on a properly pled complaint.

The complaint is also deficient in a second respect. The Board's procedural rules state that "[i]ndividuals may appear on their own behalf or through an attorney-at-law." 35 Ill. Adm. Code 101.400(a)(1). The complaint lists both Diana and Kevin Leindl as complainants, but only Ms. Leindl signed the complaint. There is nothing in the record that indicates Ms. Leindl is an attorney. On this record, then, Ms. Leindl cannot represent Mr. Leindl in the proceeding. Mr. Leindl has the option to retain an attorney to represent him, or to sign the amended complaint and represent himself.

Based on these deficiencies, the Board declines to accept the Leindls' complaint for hearing. *See Chvalovsky v. Commonwealth Edison*, PCB 10-13, slip op. at 2 (Aug. 9, 2010).

To remedy these deficiencies, the Board allows the Leindls until Monday, April 1, 2019, the first business day following the 45th day after the date this order, to file an amended complaint with the Board. *See* 35 Ill. Adm. Code 101.302. If the Leindls file an amended complaint, the Leindls must serve a copy of the amended complaint on Hartsburg and file documentation of service with the Board. *See* 35 Ill. Adm. Code 101.304. The Leindls may effectuate service by certified mail as they did with the initial complaint, or by any other acceptable means set forth in the Board's rules. *See* 35 Ill. Adm. Code 101.304(c). Failure to file an amended complaint meeting these requirements may result in dismissal of this case. The deadline for Hartsburg to file an answer to the amended complaint will be set when the Board receives an amended complaint. *See* 35 Ill. Adm. Code 101.506, 103.212(b); *see also* 35 Ill. Adm. Code 103.204(e). The Board will include a copy of the Act and Board procedural rules with this order.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 14, 2019, by a vote of 5-0.


Don A. Brown, Clerk
Illinois Pollution Control Board