

FORMAL COMPLAINT

Before the Illinois Pollution Control Board

DIANA & KEVIN LEINDL)

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

Complainant(s),)

v.)

HARTSBURG GRAIN CO.)

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

Respondent(s))

PCB 20 -

[For Board use only]

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: DIANA & KEVIN LEINDL
Street Address: 209 S 2ND
HARTSBURG IL
County: LOGAN
State: IL
Phone Number: (217) 737-2675

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: HARTSBURG GRAIN CO.
Street Address: 100 W. FRONT
HARTSBURG
County: LOGAN
State: IL
Phone Number: (217) 642-5211

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.

NOISE & AIR POLLUTION: HARTSBURG GRAIN CO. BUILT GRAIN BINS NEAR OUR HOME WITH THE DRYER MOTORS FACING OUR HOME. WHEN THE DRYERS ARE RUNNING YOU CAN NOT EVEN SIT ON THE DECK AND HAVE A CONVERSATION. WE MEASURED THE DECIBEL LEVEL ON THE DECK WITH THE FURTHEST GRAIN BIN RUNNING AND IT BOUNDED BETWEEN 66-70db.

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

NOISE POLLUTION AND ABATEMENT ACT OF 1972
CLEAN AIR ACT TITLE IV - NOISE POLLUTION
TITLE 42 - THE PUBLIC HEALTH AND WELFARE CHAPTER 05
GRAIN ELEVATORS: NEW SOURCE PERFORMANCE STANDARDS (NSPS)
CAA -- TITLE I

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.

THE AIR QUALITY DURING PEAK TIMES ARE HORRIBLE. REDEYE,
GRAIN DUST AND DUST FROM THE GRAVEL LOT AS TRUCKS
PASS THROUGH MAKE IT HARD TO SEE, BREATHE AND GETS
INTO EVERYTHING IN THE HOUSE. ROTTEN CORN ODOR FROM
THE OVERFLOW STORAGE FROM THE FERMINATION. THE NOISE
LEVEL OF THE DRYERS MAKES ENJOYING OUTSIDE ACTIVITIES
IMPOSSIBLE. THE REDEYE CLOGS UP THE POOL PUMP, ETC.

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).

THIS POLLUTION OCCURS ALL YEAR BUT IS AT ITS WORSE
DURING HARVEST. UNLOADING AND LOADING OF TRUCKS
STARTS ~ 6:00 A.M. AND CAN CONTINUE TILL 12:00 A.M.
THE DRYERS STAY ON THROUGHOUT THE DAY AND NIGHT
MAKING IT DIFFICULT TO SLEEP.

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.

PARTICULATES REDUCE VISIBILITY AND HAVE IMPAIRED BREATHING WHEN TRYING TO ENJOY OUTDOOR ACTIVITIES. THE RED EYE CLOGS THE POOL PUMP AND GET INTO, ON EVERY PEICE OF POOL ACCESSORIES MAKING IT IMPOSSIBLE TO ENJOY THE GRAIN, LOT DUST GETS INTO EVERYTHING IN THE HOUSE INCLUDING THE HEATING AND COOLING SYSTEM IMPAIRING BREATHING IN THE HOME. THE NOISE LEVEL OF DRYERS MAKES OUTDOOR ACTIVITIES JUST AS DIFFICULT. IT EFFECTS TO MANY THINGS TO PUT A COMPLETE LIST ON HERE.

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)).

PLACING A SOUND BARRIER BETWEEN THE GRAIN BINS AND OUR HOME THAT DROPS THE NOISE TO AN ACCEPTABLE LEVEL. THAT LEVEL TO BE THAT WHICH ALLOWS A CONVERSATION ON THE DECK. "NOISE BARRIER" "SOUND BARRIER" AIR POLLUTION ABATEMENT PREVENTING THE TRANSFER OF PARTICULATE TO OUR PROPERTY.

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).

PCB-02-16A
PCB-01-86
PCB-09-102

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.)

KEVIN - DIANA LEINDL SELF REPRESENTED
OWNERS OF 204 S 2ND, HARTSBURG, IL 62443

12. Kevin Leindl Diana Leindl
 (Complainant's signature)

CERTIFICATION
 (optional but encouraged)

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

Kevin Leindl Diana Leindl
 (Complainant's signature)

Subscribed to and sworn before me

this 23RD day

of FEBRUARY, 2019

Kent E Cross
 Notary Public

My commission expires: _____



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, KEVIN - DIANA LEINDL, 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).

Kevin Leindl Diana Leindl
Complainant's signature

Street 2048 2ND

City, state, zip code HARTSBURG, IL 62643

Date 2/14/2019

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.

DOCUMENTATION OF SERVICE

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

This form for the Documentation of Service is designed for use by a non-attorney and must be notarized, *i.e.*, it is an "affidavit" of service. An attorney may modify the form for use as a "certificate" of service, which is not required to be notarized.

Affidavit of Service

I, the undersigned, on oath or affirmation, state that on the date shown below, I served copies of the attached Formal Complaint and Notice of Filing on the respondent at the address listed below by one of the following methods: [*check only one—A, B, C, D, or E*]

A. ____ U.S. Mail or third-party commercial carrier with the recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery. Attached is the delivery confirmation from the U.S. Postal Service or the third-party commercial carrier containing the recipient's signature and showing the date of delivery as _____ [month/date], 20___. [*Attach the signed delivery confirmation showing the date of delivery.*]

B. U.S. Mail or third-party commercial carrier with a recipient's signature recorded or to be recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery. However, the delivery confirmation from the U.S. Postal Service or the third-party commercial carrier containing the recipient's signature is not available to me at this time. On Feb 26 [month/date], 2019, by the time of 2:15 AM/PM, at Hartsburg Post Office Hartsburg IA 62643 [*address where you provided the documents to the U.S. Postal Service or the third-party commercial carrier*], copies of the attached Formal Complaint and Notice of Filing were provided to the U.S. Postal Service or the third-party commercial carrier, with the respondent's address appearing on the envelope or package containing these documents, and with proper postage or delivery charge prepaid. [*Within seven days after it becomes available to you, file with the Board's Clerk the delivery confirmation—containing the recipient's signature and showing the date of delivery—and identify the Formal Complaint to which that delivery confirmation corresponds.*]

C. ____ Personal service and I made the personal delivery on _____ [month/date], 20__, by the time of __:__ AM/PM.

D. ____ Personal service and another person made the personal delivery. Attached is the affidavit of service signed by the other person (or the declaration of service signed by the process server) who made the personal delivery, showing the date of delivery as

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Hartsburg Grain

Street and Apt. No., or PO Box No.

00 W Fran

City, State, ZIP+4®

HARTSBURG IL 62643

PS

Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for

