

PEOPLE OF THE STATE OF ILLINOIS
by ERIC F. RINEHART
State's Attorney of Lake County

By: /s/ Lisle A. Stalter
LISLE A. STALTER

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CERTIFICATE OF SERVICE

I, Lisle A. Stalter, an attorney, certify that I caused to be served this 25th day of May 2023, a true and correct copy of this Notice of Filing and attached First Amended Complaint in this matter upon the persons listed below by certified mail.

By: /s/ Lisle A. Stalter
Lisle A. Stalter

SERVICE LIST

Matthew D. Dougherty
Special Assistant Attorney General
Assistant Chief Counsel
Illinois Department of Transportation
2300 S. Dirksen Parkway, Room 313
Springfield, IL 62764

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4. The area west of US-41 includes limited commercial and an open area with a residential area west of that and the area to the east of US-41 is open between the TRS and the residential area. Residential property lines are about 700 feet to the west and 1,000 feet of the TRS installed on US-41. See Exhibit A.

5. The area surrounding the Site is either open or has a minimal number of single-story buildings between US-41 and the residential areas creating a generally open area for sound to travel.

6. In 2019, DOT undertook a road construction project a part of which included installing three new sets of Transverse Rumble Strips (“TRS”) latitudinally across the northbound lanes of US-41.

7. Each set of TRS consists of 25 strips. The grooves are ¼” deep and 4” wide, with an 8” pavement between grooves. All grooves are constructed on a pavement layer of Portland cement concrete.

8. The length of each of the three sets of TRS is 25 ft and there is 200 feet of separation between each set of TRS.

9. In October 2022, the TRS were modified, upon information and belief, by altering the construction from concrete to asphalt, shortening the length of the TRS and decreasing the depth of the TRS.

10. Since the new TRS were installed in 2019 the residents can hear traffic as it crosses the TRS and have experienced a significant interference with the use and enjoyment of their property.

11. After the installation of the new rumble strips in 2019 the neighbors were impacted by the noise of the TRS in the following ways: the noise from traffic going over the

TRS was unbearably loud noise where residents are not able to enjoy using their backyard or patio, noise from traffic travelling over the TRS could be heard inside houses even with windows closed and air conditioning on, the noise from traffic going over the TRS interrupts sleep and the noise could be heard an extensive distance away.

12. Since the October 2022 modifications to the TRS, the neighbors are still impacted by the noise of the traffic travelling over the TRS in the following ways: the noise is still very loud, traffic going over the TRS could still be heard even with all windows in the house closed, the traffic going over the TRS prevents some residents in the area from sleeping at night.

13. Upon information and belief, the purpose of TRS with other changes of traffic indicators, are to alert northbound drivers on US-41 in the area of the Site to an upcoming change in traffic control and to reduce travel speed and possibly trigger early braking.

14. When vehicles pass over TRS there is a resultant external noise. Under the conditions at the Site each vehicle that traverses the TRS causes three emittances of noise, one emittance of noise for each set of rumble strips traversed.

15. Upon information and belief, northbound US-41 has an excess of 24,000 vehicle trips per day.

16. DOT recognizes in its Bureau of Local Roads and Streets Manual that “with the sound created from transverse rumble strips, placement near residences or quiet zones should be reviewed prior to placement.” BUREAU OF LOCAL ROADS AND STREETS MANUAL, Illinois Department of Transportation, April 2005, rvsd. December 2018, at Sec. 31-1.09, p. 31-1-121.

17. In the Fall of 2021, DOT had a limited study of the area near the Site conducted to quantify the noise resulting from the installation of the TRS in 2019 (the “2021 Study”).

18. In the 2021 Study, DOT did not have sound measurements taken at the property lines of the residential properties closest to the noise source from US-41.

19. Section 23 of the Act, 415 ILCS 5/23 (2020), provides as follows:

The General Assembly finds that excessive noise endangers physical and emotional health and well-being, interferes with legitimate business and recreational activities, increases construction costs, depresses property values, offends the senses, creates public nuisances, and in other respects reduces the quality of our environment.

It is the purpose of this Title to prevent noise which creates a public nuisance.

20. Section 24 of the Act, 415 ILCS 5/24 (2020), provides as follows:

No person shall:

Emit beyond the boundaries of his property any noise that unreasonably interferes with the enjoyment of life or with any lawful business or activity, so as to violate any regulation or standard adopted by the Board under this Act.

21. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), provides the following definition:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

22. Section 25 of the Act, 415 ILCS 5/25 (2020), provides, in pertinent part, as follows:

The Board, pursuant to the procedures prescribed in Title VII of this Act, may adopt regulations prescribing limitations on noise emissions beyond the boundaries of the property of any person...

23. The Illinois Pollution Control Board promulgated regulations regarding noise on Subtitle H of the Environmental Protection regulations. 35 Ill. Admin. Code Subtitle H, part 900 *et seq.* (the “Regulations”).

24. Section 900.101 of the Regulations, 35 Ill. Admin. Code 901.101 (2020), provides in pertinent part:

“Person” is any individual, corporation, partnership, firm, association, trust, estate, public or private institution, groups, agency, political subdivision of this State, any other state or political subdivision or agency of that state, or any legal successor, representative, agent or agency of the foregoing.

25. DOT is a person as that term is defined in Section 3.315 of the Act and 900.101 of the Regulations. 415 ILCS 5/3.315 (2020); 35 Ill. Admin. Code 900.101.

26. Under the Regulations, Class A land includes property used for residential purposes. 35 Ill. Admin. Code 901.101; 901 App. B – Land-Based Classification Standards and Corresponding 35 Ill Adm Code 901 Land Classes.

27. The residential property in the area around US-41 is classified as Class A property under the Regulations.

28. US-41 is a road and is classified as Class C property under the Regulations. 35 Ill. Admin. Code 901.101; App. B – Land-Based Classification Standards and Corresponding 35 Ill Adm Code 901 Land Classes.

29. Section 901.102 of the Regulations, 35 Ill. Admin. Code 900.102, provides that a person must not cause or allow the emission of sound the exceeds the allowable octave band sound pressure levels specified when measured at any point within the receiving Class A land. Section 901.101 is attached as Exhibit B and incorporated herein as if fully set forth.

30. Section 901.102 of the Regulations, 35 Ill. Admin. Code 901.102, provides the applicable sound levels that can be emitted to Class A land during day-time and night-time hours at 25 feet from the property-line noise source. Section 901.102 is attached as Exhibit B and incorporated in the whole herein.

31. Sound measurement is to be based on L_{eq} averaging. 35 Ill. Admin. Code 900.103.

32. Under Section 901.102 allowable day-time octave band sound pressure levels (dB) emitted to Class A land from Class C land ranges from 40 dB (at 8000 Hertz) to 75 dB (at 31.5 Hertz) and night-time (10:00 p.m. – 7:00 a.m.) ranges from 32 dB (at 8000 Hertz) to 69 dB (at 31.5 Hertz). 35 Ill. Admin Code 901.102 attached as Exhibit B; *see also* 35 Ill. Admin Code 900.101 (for definition of night-time hours).

33. Although the Regulations require sound measurements to be taken in dB, the 2021 Study used sound measurements of dBA.

34. Although there is no conversion calculation of sound measurements from dB to dBA, upon information and belief, there is a rough correlation that sounds measuring about 75 - 85 dBA correlate to 70 – 85 dB and sounds measuring 85 – 100 dBA correlate to 91 – 100 dB.

35. According to the 2021 Study, sound readings taken at 50 feet from the TRS on November 18, 2021, between 11:48 am – 11:59 am ranged from 57.2 dBA to 102.7 dBA.

36. And, according to the 2021 Study, sound readings taken at 50 feet from the TRS on November 18, 2021, between 12:38 pm and 12:58 pm ranged from 62.3 dBA to 107.1 dBA.

37. Additionally, according to the 2021 Study, the averaged 10-minute L_{eq} sound readings 50 feet from the TRS frequently was 83 dBA.

38. Upon information and belief, the 2021 Study L_{eq} sound reading of 83 dBA would generally equate to a similar dB sound level.

39. The sound readings taken for the 2021 Study are representative of sounds resulting from all northbound traffic on US-41 that travel across the TRS.

40. Based upon the 2021 Study, the noise from the TRS exceeds that which is permissible under Section 901.102 of the Regulations.

41. In the Fall of 2022, DOT had a second limited study of the area near the Site conducted to determine any changes in the noise resulting from the modification of the TRS (the “2022 Study”).

42. Although the Regulations require sound measurements to be taken in dB, the 2022 Study also used sound measurements of dBA.

43. In the 2022 Study, DOT did not have sound measurements taken at the property line of any residential property in the area to the noise source from US-41.

44. According to the 2022 Study, sound readings were taken for 2 10 minute intervals at 50 feet from the TRS.

45. The 2022 Study measured sound readings 50 feet from the TRS ranging from 56.3 dBA to 87.9 dBA for the first interval and ranging from 58 dBA to 87.7 dBA for the second interval.

46. And, according to the 2022 Study, the averaged 10-minute L_{eq} sound readings 50 feet from the TRS was 76.44 for the first interval and 76.6 for the second interval.

47. Upon information and belief, the 2022 Study L_{eq} sound readings of 76.44 and 76.6 dBA would generally equate to a similar dB sound levels between 70 – 85 dB.

48. The sound readings taken for the 2022 Study continue to be representative of sounds resulting from all northbound traffic on US-41 that travel across the modified TRS.

49. Based upon the 2022 Study, the noise from the TRS continues to exceed that which is permissible under Section 901.102 of the Regulations.

50. Upon information and belief, the sound levels at the residential property lines still exceeds the minimum allowed under Section 901.102 of the Regulations. 35 Ill. Admin. Code 901.102.

51. Since 2019, residential property owners have been impacted by the noise from the TRS on US-41, even as modified, in that they: cannot open windows to enjoy fresh air; cannot use property to sit outside; cannot enjoy use of patios or yards; cannot enjoy walks outside; get woken up at night or cannot sleep; and can hear noise all day and all night.

52. The impacts noted in paragraph 43 have been experienced since the installation of the TRS on US-41 in 2019 and continue after the modifications made to the TRS in October 2022.

53. By emitting noise at levels greater than 75 dB (day-time) and 69 dB (night-time) Respondent has violated Section 901.102 of the Regulations. 35 Ill. Admin. Code 901.102.

54. By emitting noise in excess of levels permitted in Section 901.102 of the Regulations beyond its property lines, Respondent has violated Section 900.102 of the Regulations. 35 Ill. Admin. Code 900.102.

55. By emitting noise beyond the boundaries of its property that is unreasonably interfering with the enjoyment of the life of the residents in the area and is a violation of the Regulations, Respondent violated Section 24 of the Act. 415 ICLS 5/24 (2020); 35 Ill. Admin. Code 900.102 and 901.102.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, by ERIC F. RINEHART, respectfully requests that the Pollution Control Board enter an order against Respondent, ILLINOIS DEPARTMENT OF TRANSPORTATION,

1. Set a hearing in this matter at which time the Respondent will be required to answer the allegations contained herein;
2. Finding that the Respondent has violated Section 5/24 of the Act, 415 ILCS 5/24 (2020), and Sections 900.102 and 901.102 of the Board Regulations, 35 Ill. Admin. Code 900.102 and 901.102;
3. Ordering Respondent to cease and desist from any further violations of Section 24 of the Act and Sections 900.102 and 901.102 of the Regulations; 415 ILCS 5/24 (2020) and 35 Ill. Admin. Code 900.102 and 901.102;
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000) against the Respondent for each violation of Section 24 of the Act and Sections 900.102 and 901.102 of the Regulations; 415 ILCS 5/24 (2020) and 35 Ill. Admin. Code 900.102 and 901.102 (2023), and an additional penalty of Ten Thousand Dollars (\$10,000) for each day of violation;
5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 42(f) (2020), including attorney fees, expert witness and consultant fees expended by Complainant in pursuit of this action; and
6. Granting such other relief as this Board deems appropriate and just.

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By: /s/Lisle A. Stalter

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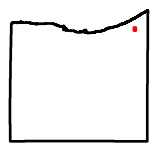


Sources: Transportation: Lake County, Illinois GIS/Mapping Division
 Parcels: Lake County, Illinois GIS Division

Tax Parcel Information
 Road Labels



Map Printed on 5/19/2023



Disclaimer: The selected feature may not occur anywhere in the current map extent. A Registered Land Surveyor should be consulted to determine the precise location of property boundaries on the ground. This map does not constitute a regulatory determination and is not a base for engineering design. This map is intended to be viewed and printed in color.

West's Illinois Administrative Code
 Title 35. Environmental Protection
 Subtitle H. Noise
 Part 901. Sound Emission Standards and Limitations for Property-Line-Noise-Sources (Refs & Annos)

35 Ill. Adm. Code 901.102

901.102 Sound Emitted to Class A Land

Currentness

a) Except as elsewhere provided in this Part, a person must not cause or allow the emission of sound during daytime hours from any property-line noise source located on any Class A, B or C land to any receiving Class A land that exceeds any allowable octave band sound pressure level specified in the following table, when measured at any point within the receiving Class A land. Sound pressure levels must be measured at least 25 feet from the property-line noise source.

Octave Band Center Frequency (Hertz) Allowable Octave Band Sound Pressure Levels (dB) of Sound Emitted to any Receiving Class A Land from

	Class C Land	Class B Land	Class A Land
31.5	75	72	72
63	74	71	71
125	69	65	65
250	64	57	57
500	58	51	51
1000	52	45	45
2000	47	39	39
4000	43	34	34
8000	40	32	32

b) Except as provided elsewhere in this Part, person must not cause or allow the emission of sound during nighttime hours from any property-line noise source located on any Class A, B or C land to any receiving Class A land that exceeds any allowable

octave band sound pressure level specified in the following table, when measured at any point within the receiving Class A land. Sound pressure levels must be measured at least 25 feet from the property-line noise source.

Octave Band Center Frequency (Hertz) Allowable Octave Band Sound Pressure Levels (dB) of Sound Emitted to any Receiving Class A Land from

	Class C Land	Class B Land	Class A Land
31.5	69	63	63
63	67	61	61
125	62	55	55
250	54	47	47
500	47	40	40
1000	41	35	35
2000	36	30	30
4000	32	25	25
8000	32	25	25

Credits

(Source: Amended at 42 Ill. Reg. 20453, effective November 1, 2018)

Current through rules published in the Illinois Register Volume 46, Issue 25, June 17, 2022. Some sections may be more current, see credits for details.

35 ILAC § 901.102, 35 IL ADC 901.102

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