

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
by Eric F. Rinehart, State's Attorney	)	
for Lake County, Illinois,	)	
Complainant,	)	
	)	PCB No. 2023-108
vs.	)	(Enforcement - Noise)
	)	
DEPARTMENT OF TRANSPORTATION of	)	
the State of Illinois,	)	
Respondent.	)	

**NOTICE OF FILING**

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Please take notice that on September 18, 2023, Respondent filed its Answer to the First Amended Complaint with the Clerk of the Pollution Control Board, via electronic filing.

Respectfully submitted,

ILLINOIS DEPARTMENT OF TRANSPORTATION,  
Respondent,

By: /s/Erin Walsh  
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Highway 41 (US-41), including, the northbound section of US-41 south of Park Avenue W, Highland Park, Lake County, Illinois (“Site”).

**ANSWER: Respondent admits that it has had jurisdiction of US-41, including the northbound section of US-41 south of Park Avenue W, Highland Park, Lake County, Illinois, from 2019 to present.**

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.

**ANSWER: Respondent denies the allegation that the area west of US-41 has limited commercial area and an open area. Respondent admits that residential property lines are approximately 750 to 1,000 feet away from the TRS installed on US-41.**

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.

**ANSWER: Respondent denies the allegation in paragraph 5.**

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.

**ANSWER: Respondent denies that the TRS were new in 2019, but admits that it undertook a road construction project in 2019 which included reconstructing TRS located latitudinally across the northbound lanes 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.

**ANSWER: Respondent admits the allegation in paragraph 7.**

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.

**ANSWER: Respondent admits the allegation in paragraph 8.**

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.

**ANSWER: Respondent admits the allegations in paragraph 9.**

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.

**ANSWER: Respondent denies that the TRS were new at the location and otherwise lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 10.**

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.

**ANSWER: Respondent denies that the TRS at this location were new, and lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 11.**

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.

**ANSWER: Respondent lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 12.**

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.

**ANSWER: Respondent admits that the TRS in this location are a safety measure with a purpose of preventing traffic crashes.**

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.

**ANSWER: Respondent admits the allegations in paragraph 14.**

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

**ANSWER: Respondent denies that northbound US-41 has an excess of 24,000 vehicle trips per day, but admits that northbound US-41 has approximately 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.

**ANSWER: Respondent denies that paragraph 16 contains a complete quotation of its current Local Roads and Streets Manual. The manual currently states, “[w]ith the sound created from the transverse rumble strips, placement near residences or quiet zones (schools, hospitals, etc.) 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- 1-12. Moreover, Respondent denies that its Local Roads and Streets Manual has any applicability to State highways such as US-41.**

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”).

**ANSWER: Respondent admits that it commissioned a sound study in 2021 to study the noise from the TRS.**

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.

**ANSWER: Respondent admits that the 2021 sound study did take any measurements from any residential property.**

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.

**ANSWER: Respondent admits that paragraph 19 contains an accurate quotation of 415 ILCS 5/23.**

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.

**ANSWER: Respondent admits that 415 ILCS 5/24 states that 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.

**ANSWER: Respondent admits that paragraph 21 contains an accurate quotation of 415 ILCS 5/3.315.**

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...

**ANSWER: Respondent admits that paragraph 22 contains an accurate partial quotation of 415 ILCS 5/25.**

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”).

**ANSWER: Respondent admits that the Board has promulgated regulations pertaining to noise contained in 35 Ill. Admin. Code Subtitle H, part 900 *et seq.***

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.

**ANSWER: Respondent admits that 35 Ill. Admin. Code 901.101 states:**

**“Person”: any individual, corporation, partnership, firm association, trust, estate, public or private institution, group, agency, political subdivision of this State, any other state or a 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.

**ANSWER: Paragraph 25 calls for a legal conclusion to which no answer is required.**

**To the extent an answer is required, Respondent admits that Section 3.315 of the Act includes state agency in its definition of person and that Section 900.101 of the Regulations includes political subdivisions of the State in its definition of person.**

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.

**ANSWER: Respondent admits the allegations in paragraph 26.**

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

**ANSWER: Respondent admits the allegations in paragraph 27.**

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.

**ANSWER: Paragraph 28 calls for a legal conclusion to which no answer is required.**

**To the extent an answer is required, Respondent denies the allegations in paragraph 28.**

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 that 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.

**ANSWER: Respondent admits that Section 901.102(a) provides that 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 table provided in Section 901.102(a) when measured at any point within the receiving Class A land. Respondent admits that Section 901.102(b) provides that a 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 table provided in Section 901.102(b) 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. Respondent denies any remaining allegations.**

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.

**ANSWER: Respondent admits that Section 901.102(a) provides that 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 table provided in Section**

**901.102(a) when measured at any point within the receiving Class A land. Respondent admits that Section 901.102(b) provides that a 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 table provided in Section 901.102(b) 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. Respondent denies any remaining allegations.**

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

**ANSWER: Respondent admits that Section 900.103(b)(1) specifies that all measurements and all measurement procedures to determine compliance with 35 Ill. Adm. Code 901, except for measurements to determine compliance with 35 Ill. Adm. Code 901.109, must be based on  $L_{eq}$  averaging, as defined in Section 900.101, using reference times as specified in subsection A) and B). Respondent denies any remaining allegations.**

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).

**ANSWER: Respondent admits the allegations in paragraph 32.**

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

**ANSWER: Respondent admits that the 2021 sound study used 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.

**ANSWER: Respondent admits that there is no conversion calculation of sound measurements from dB to dBA, and denies the remaining allegation in paragraph 34.**

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.

**ANSWER: Respondent admits the allegations in paragraph 35, but further states that the 2021 study was not performed consistent with Pollution Control Board measurement techniques.**

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.

**ANSWER: Respondent admits the allegations in paragraph 36, but further states that the 2021 study was not performed consistent with Pollution Control Board measurement techniques.**

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

**ANSWER: Respondent admits that the averaged 10-minute  $L_{eq}$  sound readings 50 feet from the TRS was 83 dBA and denies the remaining allegations in paragraph 37.**

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

**ANSWER: Respondent denies the allegation in paragraph 38.**

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.

**ANSWER: Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 39 as it does not specify any time frame or date and is vague.**

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

**ANSWER: Respondent denies the allegation in paragraph 40.**

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").

**ANSWER: Respondent admits that it commissioned a second sound study in 2022 and that, according to that study, the purpose was to enable a comparison with the noise levels generated by the rumble strips in that location in 2019.**

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

**ANSWER: Respondent admits the 2022 sound study 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.

**ANSWER: Respondent admits the 2022 sound study did not include any measurements taken on any residential property.**

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

**ANSWER: Respondent denies that sound readings were taken for two 10-minute**

**intervals at 50 feet from the TRS according to the 2022 sound study.**

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.

**ANSWER: Respondent admits the allegations in paragraph 45, but further states that the 2022 study was not performed consistent with Pollution Control Board measurement techniques.**

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.

**ANSWER: Respondent admits the  $L_{eq}$  sound readings 50 feet from the TRS was 76.4 for the first interval and 76.6 for the second interval, but further states that the 2022 study was not performed consistent with Pollution Control Board measurement techniques.**

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.

**ANSWER: Respondent denies the allegations in paragraph 47.**

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.

**ANSWER: Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 48 as it does not specify any time frame or date and is vague.**

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.

**ANSWER: Respondent denies the allegation in paragraph 49.**

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.

**ANSWER: Respondent denies the allegation in paragraph 50.**

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.

**ANSWER: Respondent lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 51.**

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.

**ANSWER: Respondent denies that the TRS were first installed in 2019 and lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 52.**

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.

**ANSWER: Respondent denies the allegation in paragraph 53.**

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.

**ANSWER: Respondent denies the allegation in paragraph 54.**

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.

**ANSWER: Respondent denies the allegation in paragraph 55.**

WHEREFORE, the Illinois Department of Transportation prays the Board dismiss this action and moves for entry of judgment in its favor and against Complainant.

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