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ILLINOIS POLLUTION CONTROL BOARD

STEVEN P. LOGSDON,)
)
 Complainant,)
 vs.) PCB 01-42
) (Enforcement-Citizens,Noise)
 TILFORD R. BOWMAN.)

HEARING

Thursday, December 7, 2000, 9:00 AM

Mt. Sterling City Hall, Council Chambers

Mt. Sterling, Illinois

HEARING OFFICER: Steven C. Langhoff

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Reported by: Vicki G. Kasten, CSR #084-003245, RPR #1945

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THE HEARING OFFICER: Good morning, everyone. My name is Steven Langhoff. I'm the Pollution Control Board hearing officer who will be handling this matter.

This is PCB 01-42, Steven P. Logsdon versus Tilford R.

1 Bowman.

2 For the record it is Thursday, December 7th, 2000, and we
3 are beginning at 9:10 AM.

4 I want to note for the record that there's one member of
5 the public present. Members of the public are encouraged and
6 allowed to provide public comment, if they so choose.

7 At issue in this case are allegations contained in a
8 complaint filed by Steven P. Logsdon.

9 The violations alleged in the complaint are violations of
10 Section 24 of the Environmental Protection Act, and 35 Il.Admin.
11 Code 900.102, both of these provisions being prohibitions on
12 noise pollution.

13 The location of the site is Mr. Bowman's sawmill and pallet
14 making operation located in Ripley, Brown County, Illinois.

15 I want to take a brief moment to let you know what is going
16 to happen today and after the proceeding today. You should know
17 that it is the Pollution Control Board, and not me, that will
18 make the final decision in this case. My job as a hearing
19 officer requires that I conduct the hearing in a neutral and
20 orderly manner so that we can have a clear record of the
21 proceedings here today.

22 During the course of this hearing, please address me as Mr.
23 Langhoff. It is also my responsibility to assess the credibility
24 of any witnesses giving testimony today, and I will do so on the

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1 record at the conclusion of the proceedings.

2 We will begin with Mr. Logsdon's case, followed by Mr.
3 Bowman having an opportunity to put on a case in his behalf. We
4 will conclude any closing arguments that the parties wish to
5 make, and then we will discuss off the record a briefing
6 schedule, if one is necessary.

7 The board's procedural rules and the Environmental
8 Protection Act provide that members of the public shall be
9 allowed to speak or submit written statements at hearing. Any
10 persons offering such testimony today shall be subject to
11 cross-examination by both of the parties. Any such statements
12 offered by members of the public must be relevant to the case at
13 hand. I will call for any statements from members of the public
14 at the conclusion of the proceedings.

15 This hearing was noticed pursuant to the Illinois
16 Environmental Protection Act, and the board's rules and
17 regulations, and it will be conducted pursuant to Section 103.202
18 and 103.203 of the board's rules.

19 Before beginning, I would like to caution everyone that a
20 board hearing is much the same as being in court, and everyone
21 should act appropriately and with proper decorum and due respect
22 for all the parties.

23 At this time, I will ask the parties to make their
24 appearances on the record, beginning with Mr. Logsdon.

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1 Mr. Logsdon, you can make an appearance on the record.

2 MR. LOGSDON: I'm Steve Logsdon.

3 THE HEARING OFFICER: Mr. Logsdon, you are not an
4 attorney; is that correct?

5 MR. LOGSDON: That's correct.

6 THE HEARING OFFICER: And you have elected to proceed today
7 without the benefit of legal counsel; is that correct?

8 MR. LOGSDON: That's correct.

9 THE HEARING OFFICER: Thank you very much.

10 Mr. Bowman, would you make an appearance on the record?

11 MR. BOWMAN: Yeah, I'm Tilford Bowman.

12 THE HEARING OFFICER: Thank you, Mr. Bowman. You are not
13 an attorney; is that correct?

14 MR. BOWMAN: That's correct.

15 THE HEARING OFFICER: You have elected to proceed today
16 without the benefit of legal counsel; is that correct?

17 MR. BOWMAN: At this time, yes.

18 THE HEARING OFFICER: Thank you very much.

19 Okay. At this time, I'd like to have Mr. Logsdon put on
20 his case.

21 MR. LOGSDON: Okay. The regular --

22 THE HEARING OFFICER: First of all, Mr. Logsdon, I'm going
23 to have you sit here. I'm going to -- actually, I think I'll
24 just let you go ahead and have you sit where you are, I guess.

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1 Would you swear the witness, please.

2 STEVEN P. LOGSDON, first duly sworn, testified as follows:

3 THE HEARING OFFICER: Would you spell your name for the
4 record, Mr. Logsdon?

5 MR. LOGSDON: S-t-e-v-e-n, middle initial is P, last name is
6 L-o-g-s-d-o-n.

7 THE HEARING OFFICER: Thank you, Mr. Logsdon. Please
8 proceed.

9 MR. LOGSDON: Okay. I want to enter in my complaint to the
10 Pollution Control Board, and the -- it has in here the different
11 operation that's been going on at the sawmill, the tractors, a
12 board machine, uses a lawnmower that -- without a muffler, and
13 board machine without a muffler, and the noise from the sawmill,
14 the blade cutting into the logs and the process. And I took
15 readings with a Radio Shack sound level meter.

16 THE HEARING OFFICER: And let the record reflect that that
17 Radio Shack sound level meter is here today. And does it have a
18 model number, Mr. Logsdon?

19 MR. LOGSDON: Yes, I wrote -- oh, I've got it on this
20 complaint here somewhere. I'll look and see.

21 THE HEARING OFFICER: Let the record reflect on the back,
22 it's marked as Catalog Number 33-2055, a sound level meter.

23 Okay. Go ahead. You took some -- you were saying that you
24 took some readings with that meter.

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1 MR. LOGSDON: That's correct. I took readings from two
2 different positions. One was in an A-frame approximately 70 feet
3 away from the sawmill operation, and --

4 THE HEARING OFFICER: Were you inside the A-frame? Is that
5 an A-frame house?

6 MR. LOGSDON: Yeah. Well, it's a part -- it was a house.
7 Now it's open. It's just all open inside. It's not really
8 considered a house.

9 THE HEARING OFFICER: Were you inside the A-frame --

10 MR. LOGSDON: Right, yes.

11 THE HEARING OFFICER: -- when you took the readings?

12 MR. LOGSDON: Yes. Yes, I use this for an office. And
13 sometimes I stay there, I spend time in there.

14 THE HEARING OFFICER: Do you live there? Is that your
15 residence?

16 MR. LOGSDON: No, that's not my permanent residence, no,
17 but I use it as an office, and kind of a workshop, and listen to
18 -- I'm on the short wave radio, worldwide out of there.

19 THE HEARING OFFICER: Let the record reflect that the
20 witness, Mr. Logsdon, is explaining Complainant's Exhibit 2,
21 marked as Plaintiff's Exhibit 2, which shows the dwelling that
22 we're discussing in the background.

23 Okay. Go ahead.

24 MR. LOGSDON: And here's another picture of the same

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1 process. It shows --

2 THE HEARING OFFICER: Let the record reflect that that's
3 marked as Plaintiff's Exhibit 3, a photograph of the dwelling.

4 Okay. You want to explain some more about these readings?
5 Tell me --

6 MR. LOGSDON: Right. Okay. I took them from a -- from 70
7 feet across the street from the sawmill operation, and also, I
8 believe it was around 200 feet from a trailer I have on the same
9 property.

10 And I have maps highlighted that I'm going to enter in with
11 this. This shows where the -- on the lots and blocks in Ripley
12 where my property is located, and the sawmill operation and
13 pallet operation is located. This is my property.

14 THE HEARING OFFICER: Let the record reflect that Mr.
15 Logsdon's referring to Plaintiff's Exhibit 1, and there is a map
16 and plat of Ripley, and he has some yellow highlight outlining
17 the property that he's describing.

18 Go ahead.

19 MR. LOGSDON: And the legal description's in the complaint
20 of the properties, of where it's at.

21 Okay. So, there was a 70 foot reading from the A-frame,
22 and then from a trailer, which is my trailer, which sits on Lot
23 2, Block 14 of the new plat. The readings is taken from there,

24 too.

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1 THE HEARING OFFICER: And is that 200 feet, approximately.

2 MR. LOGSDON: Approximately 200 feet away.

3 THE HEARING OFFICER: And is that inside the house that you
4 took these?

5 MR. LOGSDON: That was from on the deck.

6 THE HEARING OFFICER: From outside, on the deck?

7 MR. LOGSDON: On the deck.

8 THE HEARING OFFICER: Are any of these readings reflective
9 from inside the house?

10 MR. LOGSDON: None reflected from there, from inside the
11 house. From the A-frame was inside the window, from the window
12 inside.

13 THE HEARING OFFICER: Was the window open or closed?

14 MR. LOGSDON: The window was open.

15 THE HEARING OFFICER: The window was open.

16 MR. LOGSDON: Right, from inside the window.

17 THE HEARING OFFICER: And do you live in this house
18 trailer? Is this your residence?

19 MR. LOGSDON: No, that's not my residence, either. I use
20 it. I cook in the house trailer, and -- and I use it, I watch TV
21 in there.

22 THE HEARING OFFICER: Do you sleep there at night?

23 MR. LOGSDON: Nope. Nope. I do not sleep in the trailer.

24 THE HEARING OFFICER: Go ahead, please.

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1 MR. LOGSDON: Okay. So, I have here the readings. I can
2 give you the dates. This wasn't all the time he was in
3 operation. This is a few of the readings on -- it was on Monday,
4 July 17th, 2000, from 4 PM to 6:45 PM.

5 THE HEARING OFFICER: Okay, thank you. During that time,
6 both the tractor motor and sawmill and board machine -- no,
7 excuse me, just the tractor motor and sawmill was in operation?

8 MR. LOGSDON: Right, because he's never run the tractor,
9 sawmill, and the board machine at the same time. He runs the
10 tractor and the sawmill, except when he's running around with
11 pulling stuff in his operation of his pallets and stuff that he
12 runs a tractor. But he uses the tractor to run the sawmill, it's
13 what turns the sawmill.

14 THE HEARING OFFICER: Okay, thank you. And under these
15 readings, you have listed board machine on the second page with
16 the date, July 18th of 2000, and the time?

17 MR. LOGSDON: Yes, yes, down at the bottom, that's correct.

18 THE HEARING OFFICER: And that's taken from that --

19 MR. LOGSDON: It's a board machine after he's cut the slab,
20 or the sides off, cuts the boards off with the sawmill. Then he
21 puts it on the -- on a -- like a little conveyor roller, I
22 believe, and then he cuts the -- the boards into shape for his

23 pallet operation the right size, cuts the size of them.

24 THE HEARING OFFICER: And you took these readings from that

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1 small dwelling?

2 MR. LOGSDON: That's correct, from the A-frame.

3 THE HEARING OFFICER: It was approximately 70 feet away?

4 MR. LOGSDON: That's correct.

5 THE HEARING OFFICER: Was the window open or closed?

6 MR. LOGSDON: The window was open.

7 THE HEARING OFFICER: And the next heading, let's look at
8 tractor motor and sawmill again. You have a time and date and 70
9 feet away. Was the window open or closed?

10 MR. LOGSDON: The window was always open.

11 THE HEARING OFFICER: Always open on all these readings?

12 MR. LOGSDON: On all these readings, yes, sir.

13 THE HEARING OFFICER: Okay, thank you. Anything else you
14 want to testify about on your complaint?

15 MR. LOGSDON: Okay. I said some of them are from the
16 trailer and some is from the A-frame.

17 THE HEARING OFFICER: And those are all marked; correct?

18 MR. LOGSDON: Those are all marked, the time, date, and --
19 on them, yes, sir.

20 THE HEARING OFFICER: All right. Anything else?

21 MR. LOGSDON: I have additional pictures of the operation,

22 shows the machines that he uses in the operation.

23 THE HEARING OFFICER: What does that show?

24 MR. LOGSDON: Well, it's not that good a picture, but I

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1 believe this is his board machine right here, back here, without
2 the -- with just a straight -- a straight pipe on it, looks like.

3 THE HEARING OFFICER: Okay. I'm marking this as
4 Complainant's Exhibit 4. It's marked as Plaintiff's Exhibit 4.
5 And it shows a picture of, I guess, some mill operation.

6 MR. LOGSDON: Yeah, it's -- it's the mill.

7 Here's a picture from in -- right outside the A-frame
8 showing the operation with the -- with the tractor connected to
9 the sawmill.

10 THE HEARING OFFICER: Okay. That's been marked as People's
11 5. What does it show? What's this building? Is that where the
12 noise comes from?

13 MR. LOGSDON: Yes. The tractor is facing the road. The
14 shaft from the tractor turns the blade of the sawmill, which is
15 inside this shanty.

16 THE HEARING OFFICER: And are those readings that you
17 testified earlier about, tractor motor and sawmill, is this
18 picture representative of where the noise comes from for the
19 tractor motor and sawmill?

20 MR. LOGSDON: Yes, sir, that's correct.

21 THE HEARING OFFICER: Okay, thank you.

22 MR. LOGSDON: Here's a picture also, I need to mark this or
23 you need to mark it. I want to enter it. This shows the saw
24 blade without the tractor in here. It shows the damn near saw

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1 blade through the opening, where it -- the tractor's connected
2 to.

3 THE HEARING OFFICER: Okay, thank you. Anything else about
4 that noise?

5 MR. LOGSDON: Well, there's -- the noise from the tractor
6 was entered, and when the sawmill -- when the saw blade's
7 turning, it increases it quite a bit, and --

8 THE HEARING OFFICER: And that's the board machine?

9 MR. LOGSDON: No, that's the sawmill. The board machine is
10 a separate machine that cuts it, which --

11 THE HEARING OFFICER: And that's reflected --

12 MR. LOGSDON: You can barely --

13 THE HEARING OFFICER: The sawmill -- excuse me, the board
14 machine is depicted in Plaintiff's Exhibit 4, and the tractor
15 motor is depicted in Plaintiff's Exhibit 6?

16 MR. LOGSDON: That's the blade.

17 THE HEARING OFFICER: And the blade.

18 MR. LOGSDON: Tractor blade.

19 THE HEARING OFFICER: Okay. Go ahead.

20 MR. LOGSDON: Okay. And then these are additional pictures

21 that I want to enter that shows different time of year of the
22 A-frame from on the street diagonally in front of the sawmill to
23 my A-frame.

24 THE HEARING OFFICER: What's this?

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1 MR. LOGSDON: That's my property.

2 THE HEARING OFFICER: Is this the boards here depicting
3 where the operations take place?

4 MR. LOGSDON: That's correct. That's correct. That shows
5 the 70 foot.

6 Okay. This is just -- this picks up the logs, and this is
7 when he's driving around all over, pulling up the -- picking up
8 the logs and carrying them around the sawmill.

9 THE HEARING OFFICER: Does this make noise?

10 MR. LOGSDON: No, it just shows that his tractor is driving
11 all around the area. That's what he pulls behind to pick up the
12 logs through this -- it can go with this other picture that shows
13 the logs.

14 And, also, there's another yellow machine here he brings
15 in, which is excessively loud, that picks up the logs.

16 THE HEARING OFFICER: What is that machine?

17 MR. LOGSDON: Well, I believe it's made for out in -- kind
18 of operates like a skidder, in a way, I believe.

19 THE HEARING OFFICER: Let the record reflect that he's --
20 Mr. Logsdon is referring to what's been marked as Plaintiff's

21 Exhibit 8.

22 MR. LOGSDON: With a yellow -- a yellow -- I believe it's
23 for forest production, is what that machine is for. Forestry
24 operations.

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1 THE HEARING OFFICER: Okay. For the record, I'm not going
2 to admit Plaintiff's Exhibit 7. It's not relevant.

3 And would you tell me a little bit more about this? Is
4 that the same machine?

5 MR. LOGSDON: Yes, here's the same machine.

6 THE HEARING OFFICER: Okay. Mr. Logsdon is referring to
7 what's been marked as Plaintiff's Exhibit 9.

8 Why don't you describe that machine?

9 MR. LOGSDON: Okay. This is Tilford Bowman on the machine,
10 and I would say it would probably classify as a skidder, a front
11 operational skidder.

12 THE HEARING OFFICER: What kind of noise does that machine
13 make?

14 MR. LOGSDON: Well, it makes a terrible loud noise, and I
15 believe they even operate something like this machine, you would
16 have to wear ear protection, I believe, from any place that I've
17 ever been employed at.

18 THE HEARING OFFICER: But that's not really relevant, Mr.
19 Logsdon. I want to have you testify how the noise affects you.

20 MR. LOGSDON: Okay. The noise is so loud, that when he's
21 operating this equipment, I have to wear these inside my A-frame,
22 and -- and the sound from the sawmill and the sound from this
23 goes through and still gives me a headache from the blade.

24 THE HEARING OFFICER: Let the record reflect that Mr.

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1 Logsdon is holding up and referring to a pair of --

2 MR. LOGSDON: Sears.

3 THE HEARING OFFICER: Sears green earmuffs. Do these have
4 a decibel rating?

5 MR. LOGSDON: I don't have them on there. I think they're
6 good quality. They're Sears.

7 THE HEARING OFFICER: Okay. I don't see any kind of
8 identifying marks on this, but some earmuffs.

9 MR. LOGSDON: And inside the building, it's still not
10 enough to keep the noise from causing headaches. It pierces
11 right through. When the saw blade hits these logs, it pierces
12 right through, and this does not muffle out the sound.

13 THE HEARING OFFICER: Okay, thank you. At this time, I
14 would like to go off the record for just a moment.

15 (Off the record.)

16 THE HEARING OFFICER: Okay. We're back on the record.

17 MR. LOGSDON: Okay. Yes, I'll enter this. It shows the
18 setup without the pieces of metal.

19 THE HEARING OFFICER: Okay. Mr. Logsdon is referring to

20 what's been marked as Plaintiff's Exhibit 10, a photograph.

21 What does that depict, Mr. Logsdon?

22 MR. LOGSDON: Well, it shows the tractor backed up to the
23 sawmill, is what it shows.

24 THE HEARING OFFICER: Does that run and make noise?

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1 MR. LOGSDON: Well, yes, it was then. And then when he put
2 the tin and the roofing over it, it -- it didn't make any
3 difference in the noise level at all. The noise was still coming
4 off because it's open, it's open where the saw blade's at, is
5 open area there anyways, for the shaft to run.

6 THE HEARING OFFICER: Okay, thank you. Anything else.

7 MR. LOGSDON: Well, I'd like to say on these dates, after I
8 -- he was served through the mail --

9 THE HEARING OFFICER: With the complaint?

10 MR. LOGSDON: With the complaint.

11 THE HEARING OFFICER: Okay.

12 MR. LOGSDON: He -- instead of slowing up any on it -- and
13 I believe it was around the 28th of August that he received the
14 copy of the complaint -- he decided to run it even more. And I'd
15 just like to go over a few dates here.

16 THE HEARING OFFICER: Okay. Let the record reflect that
17 Mr. Logsdon is referring to a calendar that he has, a yearly
18 calendar marked.

19 Okay. Go ahead, please.

20 MR. LOGSDON: And on Labor Day, he decided to run this
21 sawmill, it was September 4th, Labor Day, 2000, he run the
22 sawmill from 8:30 in the morning till six at night.

23 And then on September the 6th, 2000, he ran the sawmill
24 from 10:30 in the morning till five o'clock at night. And this

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1 was nonstop.

2 And then on September the 18th, 2000, he ran the sawmill
3 again.

4 On September the 21st, 2000, he ran his board machine from
5 -- which I believe it goes up to sometimes over 85 decibels. He
6 ran it from ten to twelve, nonstop.

7 And on September 24th, it was a Sunday, 2000, he ran the
8 sawmill from ten to 11:30 in the morning.

9 And this wasn't all, this was just times when I marked it
10 on the calendar. This wasn't exactly all the times he ran it.

11 And then on October the 9th, 2000, he ran the sawmill on a
12 Monday, that was Columbus Day observed holiday.

13 And then on October the 10th, 2000, he ran his board
14 machine.

15 And then on October the 14th, 2000, he ran the sawmill
16 again.

17 And then on October the 15th, 2000, which was a Sunday, he
18 ran his board machine.

19 And October the 31st, 2000, which I want to enter here a
20 special statement about the chain saw operations. I don't have a
21 picture of him taking the chain saw, but he'll run the chain saw
22 for hours on end, cutting the ends off of these logs, get them
23 ready to put on to size up to go through his sawmill operation.

24 THE HEARING OFFICER: Okay, thank you. Do you wish to --

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1 MR. LOGSDON: And I'd like to say one more date here. Then
2 on November the 4th, 2000, he ran the sawmill from -- that was on
3 Saturday, from nine until approximately 12:30 in the morning.
4 Now --

5 THE HEARING OFFICER: Excuse me, Mr. Logsdon. Do you wish
6 to introduce the calendar into evidence?

7 MR. LOGSDON: Yes, sir, I do.

8 THE HEARING OFFICER: I'm going to mark Mr. Logsdon's
9 calendar as Plaintiff's 11.

10 Okay. Anything else, Mr. Logsdon?

11 MR. LOGSDON: Yes. And then on this last date, if you
12 could flip to the last date on here, I was suffering -- and it's
13 marked on here where I had to have surgery on my finger and
14 different things when this was going on. I had a lot more
15 medical problems, and it is marked. I only put -- it's marked on
16 here September the 26th, 2000, and I'd had to see a doctor
17 before, I had to have surgery, and was going through all this

18 stuff, and had been operated on three times before -- with this
19 date. And had a lot of other problems.

20 And when he started running on -- when he started to run
21 this constantly, and my health's not that good, I'm disabled and
22 have lung trouble, and when he started running from 8:30 to six,
23 all day long, on a holiday, September the 4th, 2000, I was in
24 this building, and it -- I was having hearing -- I'd say hearing

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1 problem before this date on September 4, 2000, but damage from
2 listening to this was done at this time.

3 Now, I didn't -- I hadn't felt good, and have all kinds of
4 medical problems, and I didn't run to the doctor. I suffered
5 through this instead of run up to the -- the emergency room for a
6 doctor on this hearing, because of the other medical problems I
7 have.

8 And so what happened then, on the date of November the 4th,
9 which was a Saturday, 2000, the last day that this sawmill was
10 operated from nine until 12:30, that night, I went to the
11 emergency room in McDonough District Hospital in Macomb,
12 Illinois. And I'd like to enter a detailed statement on the
13 bill. And because of my medical problems, I haven't still gone
14 -- I'm supposed to see an ear, throat, and nose doctor, which I
15 have to -- have to do, and there's a bill for, I believe, \$129,
16 and --

17 THE HEARING OFFICER: This is a bill from the hospital

18 concerning an injury to your ear, or --

19 MR. LOGSDON: Here is -- on the discharge on this other
20 paper I want to enter, it has it right here. What -- I was
21 having severe pain, had for the -- the month of September and
22 October. Like I said, I had all these other medical problems,
23 and I was having to take -- take a codeine to kill the pain from
24 this sawmill operation.

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1 THE HEARING OFFICER: This visit to the hospital was a
2 result of the noise?

3 MR. LOGSDON: That is correct. That --

4 THE HEARING OFFICER: Okay, thank you.

5 MR. LOGSDON: And I haven't gone back. I was waiting for
6 him, figuring he would start up before then, but it was really
7 interesting how it was the last time when I went to the hospital
8 that it stopped, that -- and it hasn't -- this -- it hasn't been
9 operated since, since this time. The sawmill's not been operated
10 since November the 4th, 2000. But I still have problems with my
11 hearing. And I'm going to seek additional medical help soon.

12 THE HEARING OFFICER: Okay, thank you. Anything else that
13 you wish to testify about?

14 MR. LOGSDON: Well, I would just like to say, too, on here
15 about the threats and --

16 THE HEARING OFFICER: No, I'm sorry, Mr. Logsdon.

17 MR. LOGSDON: Oh, I can't? Oh, okay.

18 THE HEARING OFFICER: We're not going to be talking about
19 anything like that. It's not relevant.

20 MR. LOGSDON: Okay. When he had come in here --

21 THE HEARING OFFICER: Mr. Logsdon, we're not going to be
22 talking about that. It's not relevant.

23 MR. LOGSDON: Okay. Okay.

24 THE HEARING OFFICER: Do you have anything else you'd like

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1 to discuss about the noise?

2 MR. LOGSDON: Well, I would like the noise and that
3 operation to stop for my health reasons, which I have written in
4 the complaint. And it's in a residential area, and lots and
5 blocks was plotted. And this, I believe, would be industrial or
6 heavy industrial.

7 And in a residential area where you have to wear hearing
8 protection in your building, and you can't go out in your yard,
9 you can't enjoy your property because of all this noise. And a
10 person shouldn't have to wear hearing protection in their place,
11 let alone not even be able to go outside.

12 And anyone knows around a sawmill operation, you wear
13 hearing protection around it. And my property is 70 feet away
14 from his and his operation. And this isn't the place for an
15 operation like this in Ripley, not in the -- in a residential
16 area.

17 THE HEARING OFFICER: Anything else, Mr. Logsdon?

18 MR. LOGSDON: No.

19 THE HEARING OFFICER: Okay. Let the record reflect that
20 I'm showing Mr. Bowman these, Plaintiff's Exhibits 1 through 12,
21 but not 7.

22 There is the complaint, Mr. Bowman.

23 MR. BOWMAN: Is that the same complaint that I had before?

24 THE HEARING OFFICER: Yes, sir, it is.

21

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1 MR. BOWMAN: Have to go through this. Take over that
2 there, too.

3 THE HEARING OFFICER: Take a look at all those, too.
4 Let's go off the record for just a minute, please.

5 (Off the record.)

6 MR. BOWMAN: I'm done with them.

7 THE HEARING OFFICER: Okay, thank you. We're back on the
8 record.

9 Mr. Bowman, is there any questions that you would like to
10 ask Mr. Logsdon concerning anything he testified about today?

11 CROSS-EXAMINATION

12 BY MR. BOWMAN:

13 Q. Yeah, I'd like to ask him one question. Does his
14 motorcycle -- you have to put them on when you're on your
15 Harley?

16 A. Do I have to wear one what?
17 Q. Them earmuffs?
18 A. Oh, no.
19 Q. Okay. Now, did you have to have something like that on
20 your ears when you was running Charlie Cook's tractor all over
21 town moving rocks and --
22 A. Well, that's different than when I'm sleeping.
23 Q. When do you sleep?
24 A. Well, I sleep any time, day or night. I don't have any

22

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1 schedule sleeping, and it's a residential area.
2 Q. Is your address there?
3 A. Is my address there? That's not my address there.
4 MR. BOWMAN: That's all I have.
5 MR. LOGSDON: That's not my residence. That's my property,
6 and I use it.
7 THE HEARING OFFICER: That's enough, Mr. Logsdon. Thank
8 you.
9 MR. BOWMAN: I would like to have a copy of all this, if
10 possible.
11 THE HEARING OFFICER: Certainly.
12 MR. BOWMAN: Because I got to go talk to an attorney today,
13 and state's attorney, and if I'm done here?
14 THE HEARING OFFICER: Just a moment. And you don't have
15 any more questions, Mr. Bowman, for Mr. Logsdon?

16 MR. BOWMAN: No, sir, that's -- that's all for me.

17 THE HEARING OFFICER: Okay, thank you. I have a couple
18 questions to help clarify things for the board, Mr. Logsdon.

19 CROSS-EXAMINATION

20 BY THE HEARING OFFICER:

21 Q. The property that is adjacent or near Mr. Bowman's
22 property here that you've shown pictures of, and that you took
23 the sound measurements from, that's not your residence?

24 A. That's not my legal residence, no. I have a house with

23

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1 a legal residence that's my legal residence, and then I have this
2 building here where it's an office, I use it as an office.

3 Q. Approximately how many days out of the year do you use
4 that as an office?

5 A. Oh, I go in there and stay whenever I have paper work,
6 whenever I have to do stuff, I go in there all the time. There's
7 no certain amount of time.

8 Q. Approximately how many days a year?

9 A. Oh, I've used it for -- since I got snowed in in the
10 storm, I believe it was two years ago, I've used the house and
11 trailer every day. I've used it every day. I use them every
12 day. I go in and eat in the trailer. And I've been in there
13 every -- every day since I bought it in 1997, I believe, '96.
14 I'm in them.

15 Q. Thank you. Is your residence then Rural Route 2, Box
16 139?
17 A. That's right. I have a house down there.
18 Q. And where is that location to this property?
19 A. It's on the plat.
20 Q. It's in Ripley?
21 A. Yeah, it's in Ripley.
22 Q. It's shown on the plat of Ripley?
23 A. Yes, sir. Yeah. I'm remodeling my house, and it's --
24 THE HEARING OFFICER: Okay. Let the record reflect that

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1 we're looking at the complaint, which has been marked as
2 Plaintiff's Exhibit 1, at the plat.
3 MR. LOGSDON: Okay. Down here.
4 THE HEARING OFFICER: I'm handing Mr. Logsdon a pen. Why
5 don't you just put an X where your residence is at Rural Route 2,
6 Box 139. It says Rushville, but is that the same as Ripley?
7 MR. LOGSDON: Yes. My -- I'm the only person in Ripley
8 that has a Rushville address.
9 THE HEARING OFFICER: Okay. And for the record, Mr.
10 Logsdon has -- thank you -- circled a couple lots and marked
11 "house" --
12 MR. LOGSDON: Right.
13 THE HEARING OFFICER: -- on the plat.
14 MR. LOGSDON: And that's my property, too, but that's where

15 the house is, right here.

16 THE HEARING OFFICER: And again, is this your property here
17 with the small --

18 MR. LOGSDON: Right.

19 THE HEARING OFFICER: The small, as you referred to the
20 A-frame building, or empty building, all this?

21 MR. LOGSDON: That's right. It's on Lot 1.

22 THE HEARING OFFICER: That's a 1?

23 MR. LOGSDON: Lot 1 of Block 14 of the new plat.

24 MR. LOGSDON: It's where the A-frame sits, and on Lot 2 of

25

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1 Block 14 is where the trailer sits.

2 THE HEARING OFFICER: Okay, thank you. And for the record,
3 again, we're looking at the Ripley plat, and it's the circled map
4 attached to Plaintiff's Exhibit 1.

5 MR. LOGSDON: And I use them every day. It's nothing
6 different than a person having a nice house at one place, and
7 then in the country, and they like to go and have a nice -- a
8 place in town where they can go and enjoy in town, too. I like
9 to be in town and in the country atmosphere, too. So, it's no
10 different than owning two houses.

11 THE HEARING OFFICER: Okay, thank you, Mr. Logsdon.

12 MR. LOGSDON: But my residence is at the house, is where my
13 residence is at.

14 THE HEARING OFFICER: Thank you. That's all.
15 Do you have anything else, Mr. Logsdon, any other witnesses
16 you want to call today?
17 MR. LOGSDON: No.
18 THE HEARING OFFICER: Okay, thank you.
19 Mr. Bowman, do you want to take the stand and testify, or
20 call any witnesses.
21 MR. BOWMAN: I have no witnesses right at this time, sir.
22 THE HEARING OFFICER: Okay. Thank you.
23 Okay. We'll go off the record for a minute.
24 (Off the record.)

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1 THE HEARING OFFICER: Okay. We're back on the record. Mr.
2 Bowman has indicated that he'd like to make a statement.
3 Would you swear Mr. Bowman, please.
4 TILFORD R. BOWMAN, first duly sworn, testified as follows:
5 THE HEARING OFFICER: Go ahead, Mr. Bowman.
6 MR. BOWMAN: Now, as far as this smoke and stuff bothering
7 his health --
8 THE HEARING OFFICER: We're not --
9 MR. BOWMAN: I realize this, but I'm saying, he is stating
10 he has lung problems and so on and so forth.
11 THE HEARING OFFICER: Well, we're not discussing anything
12 that has anything to do with the smoke. The only thing we're
13 discussing today is any noise.

14 MR. BOWMAN: Okay. Well, okay. I've never run the mill
15 seven days a week from sunup till sundown. It's -- it's lucky to
16 run once a week. And I have witnesses for that.

17 THE HEARING OFFICER: Anything else, Mr. Bowman?

18 MR. BOWMAN: That's it, sir.

19 THE HEARING OFFICER: That's it?

20 Would you like to ask Mr. Bowman any questions, Mr.
21 Logsdon?

22 MR. LOGSDON: Well, yes. Could I see the -- we use the
23 calendar right here, and as far as what he just said was --

24 THE HEARING OFFICER: Do you have a question for Mr.

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1 Bowman?

2 CROSS-EXAMINATION

3 BY MR. LOGSDON:

4 Q. Oh. Oh. Well, you say you only run it once a week.
5 How come it shows here that you have run it on this calendar
6 September -- so, September the 4th, from eight to six, and
7 September the 6th of 2000 from 10:30 to five?

8 A. Steve, everybody knows in town I don't run that mill all
9 day. Everybody knows that. My neighbors over there knows that.

10 Q. I don't believe anyone said you ran it all day?

11 A. It's in your complaint.

12 Q. No, it said it was a seven-day operation.

13 A. No, it's not.

14 Q. Yes, and I believe it's a seven day operation to have
15 the sawmill and pallet operation?

16 A. It can't be.

17 Q. I believe --

18 THE HEARING OFFICER: Gentlemen. You're just supposed to
19 ask a question, and Mr. Bowman will answer your question.

20 MR. LOGSDON: Right.

21 THE HEARING OFFICER: So, do you have any other questions
22 for Mr. Bowman?

23 Q. (By Mr. Logsdon) What do you do with the boards after
24 you take them off the sawmill?

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1 A. I take them down to the shed.

2 THE HEARING OFFICER: Does that have anything to do with
3 the noise?

4 MR. LOGSDON: Right. He makes pallets.

5 THE HEARING OFFICER: Okay.

6 MR. LOGSDON: And then he hauls them around with the
7 tractor.

8 THE HEARING OFFICER: Go ahead, ask the question, Mr.
9 Logsdon. I'm sorry.

10 Q. (By Mr. Logsdon) Okay. So then you make pallets with
11 your boards; is that correct?

12 A. Right, yes, sir.

13 Q. And then you load them up on your tractor and haul them
14 around up to your nephew's or Cox's or whatever, and then you
15 haul pallets in on the tractor?

16 A. That's not a crime.

17 THE HEARING OFFICER: I'm sorry, what was your answer?

18 MR. BOWMAN: I said, that's not a crime.

19 THE HEARING OFFICER: Thank you.

20 MR. LOGSDON: Well, if you're running --

21 THE HEARING OFFICER: Do you have any other question?

22 MR. LOGSDON: No, I don't have anymore questions for him.

23 I'd like to make a comment.

24 THE HEARING OFFICER: You can't, Mr. Logsdon. You can just

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1 ask Mr. Bowman a question.

2 MR. LOGSDON: Oh. No, I don't have any more questions. I
3 can't make a comment on that? Okay. I've already entered my
4 information. Okay.

5 THE HEARING OFFICER: And Mr. Bowman, anything in response
6 to Mr. Logsdon's questions?

7 MR. BOWMAN: No, sir.

8 THE HEARING OFFICER: Okay, thank you. Do you have another
9 witness that you wanted to call, or --

10 MR. BOWMAN: This gentleman here tell you that I don't run
11 the mill all --

12 THE HEARING OFFICER: Do you want to call him as your
13 witness?

14 MR. BOWMAN: Yeah, if he wants to.

15 MR. RAINEY: Makes no difference.

16 THE HEARING OFFICER: You want to take a seat right there?

17 MR. BOWMAN: Let the record show he's my nephew, so, it's--

18 MR. RAINEY: And that don't have nothing to do with it.

19 THE HEARING OFFICER: Okay. Would you swear the witness,
20 please.

21 ROGER L. RAINEY, first duly sworn, testified as follows:

22 THE HEARING OFFICER: Would you state your name for the
23 record?

24 MR. RAINEY: Roger L. Rainey, R-a-i-n-e-y.

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1 THE HEARING OFFICER: Okay. Mr. Bowman, do you have any
2 questions for Mr. Rainey?

3 MR. BOWMAN: Yeah.

4 DIRECT EXAMINATION

5 BY MR. BOWMAN:

6 Q. Roger, do I run the mill all day long?

7 A. No.

8 Q. And how many times do I run that mill?

9 A. Well, if you're lucky, you run it about once or twice a
10 week, and not no seven days a week, eight hours a day.

11 MR. BOWMAN: That's all the questions I needed.

12 THE HEARING OFFICER: Do you have any questions?

13 MR. LOGSDON: Yes.

14 CROSS-EXAMINATION

15 BY MR. LOGSDON:

16 Q. You said you don't have anything to do with his
17 operation at all?

18 A. I help him once in awhile, but he does not run it eight
19 hours a day.

20 Q. Well, if you help him, you have something to do with the
21 operation then, right?

22 A. Sometimes.

23 MR. LOGSDON: I'd like to show a picture --

24 THE HEARING OFFICER: No. I'm sorry, Mr. Logsdon, you're

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1 just allowed to cross-examine the witness as to anything he
2 testified for Mr. Bowman.

3 Q. (By Mr. Logsdon) Okay. So, you've made the statement
4 that you didn't have anything to do with it, his operation, and
5 now you've made the statement that you do help him?

6 A. I say I said this doesn't have nothing to do with being
7 related to him.

8 THE HEARING OFFICER: Okay. Mr. Rainey, I just want the
9 record to reflect that you're related to Mr. Bowman in some way?

10 MR. RAINEY: Yeah, but --

11 THE HEARING OFFICER: And how's that?

12 MR. RAINEY: I'm his nephew, but that doesn't have nothing
13 to do with what's going on.

14 THE HEARING OFFICER: Okay, thank you.

15 Do you have any more questions, of Mr. Rainey?

16 MR. LOGSDON: No, but --

17 THE HEARING OFFICER: Do you have a question?

18 Q. (By Mr. Logsdon) You do help him in his operation?

19 A. Sometimes I do.

20 THE HEARING OFFICER: Okay, thank you.

21 MR. RAINEY: That's it?

22 THE HEARING OFFICER: Do you have any more questions for
23 Mr. Rainey, Mr. Bowman?

24 MR. BOWMAN: No, sir.

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1 THE HEARING OFFICER: Okay.

2 MR. LOGSDON: Am I allowed to make a statement?

3 THE HEARING OFFICER: At the end, yes, you'll be given a
4 chance to make your arguments.

5 MR. LOGSDON: Okay.

6 THE HEARING OFFICER: Okay. Thank you, Mr. Rainey.

7 MR. RAINEY: Thank you.

8 THE HEARING OFFICER: Mr. Bowman, anything else in your
9 behalf?

10 MR. BOWMAN: No, sir.

11 THE HEARING OFFICER: Okay, thank you.

12 Let the record reflect that the complainant, Mr. Logsdon,
13 has moved for the introduction of what's been marked as
14 Plaintiff's 1 through 12.

15 Plaintiff's Exhibits 1 through 12 are admitted with the
16 exception of Exhibit 7, which is excluded, as it's not relevant.
17 I will, however, take that exhibit into my possession, put it in
18 a sealed envelope.

19 Okay. It seems that the record, the transcript of this
20 hearing will be available in eight business days. We've had a
21 brief off the record discussion about briefs. Any post-hearing
22 briefs that are filed will be due by January 19th, 2001.

23 Okay. Now I'd like to give the parties an opportunity to
24 make any kind of closing arguments. And I'll ask Mr. Bowman if

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1 he'd like to make any kind of closing arguments? Do you have
2 any--

3 MR. BOWMAN: I haven't any, sir.

4 THE HEARING OFFICER: Okay, thank you.

5 Mr. Logsdon, do you have any kind of closing arguments?

6 MR. LOGSDON: Yes. I'd like to just put it on the record
7 that he does have a seven-day-a-week operation. And the evidence
8 there, I'm sure, shows that he operates from Sunday, all the way
9 to Saturday, on different days. And not only can it be at sunup

10 to sundown.

11 He does his pallets, because there's a sawmill operation,
12 and a pallet operation. And between the two of the operations,
13 it can operate anywhere from -- I've seen him sunup to midnight
14 at night in his garage, and working on the equipment, running his
15 tractor through town, and pulling his trailer, and the whole
16 operation means from his lawnmower he uses to pull his trailer
17 with to his -- to go up and see what the price of a pallet is up
18 at Cox's or at his nephew Bowman's, or Pat Stille's, or whatever,
19 and through his operation in the daytime.

20 It's an operation that operates from sunup, practically,
21 until sometimes midnight at night. And he's talked -- I've been
22 up at his nephew's, Pat Bowman's, in town there, has another
23 sawmill there, and off the square, and they talk about pallets at
24 night.

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1 So, it's a -- that's part of business, as far as I'm
2 concerned. So, it's -- it's his life that occupies him from
3 sunup to the time he goes to bed, waking hours. It is.

4 THE HEARING OFFICER: Okay. Anything else, Mr. Logsdon?

5 MR. LOGSDON: No. No, sir.

6 THE HEARING OFFICER: Okay, thank you. Is there anything
7 further from either parties before we conclude the matter today?

8 MR. BOWMAN: No, sir.

9 THE HEARING OFFICER: Okay. At this time, I want to ask

10 again, are there any members of the public present that want to
11 make a statement?

12 MR. BOWMAN: None on my side, sir.

13 THE HEARING OFFICER: Mr. Rainey?

14 MR. RAINEY: Yes. What's the problem with people talking
15 about making pallets?

16 THE HEARING OFFICER: Okay. Are you addressing that
17 statement to the board? I'm not sure I understand what you're --

18 MR. RAINEY: Well, he just got -- yeah, I'm addressing it
19 to the board. He said just said midnight talking about making
20 pallets. What's the problem with talking about making pallets?

21 THE HEARING OFFICER: Okay.

22 MR. RAINEY: I just like -- and you're talking, what's that
23 got to do with his business?

24 THE HEARING OFFICER: It doesn't, and I don't believe it's

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1 relevant, and I don't believe the board will consider it, Mr.
2 Rainey.

3 MR. RAINEY: Okay, thank you.

4 THE HEARING OFFICER: Okay, thank you. If you have access
5 to the Web, which is usually available at your public library,
6 you can access our Pollution Control Board website at
7 www.IPCB.state.il.us. I'll give you both a card with that
8 website on it.

9 HEREBY CERTIFY that I was present in Council Chambers of the Mt.
10 Sterling City Hall, located in Mt. Sterling, Illinois, on
11 Thursday, December 7, 2000;

12 That I did record the aforesaid Public Hearing;

13 That the same was taken down by me stenographically and
14 afterwards transcribed;

15 And that the above and foregoing is a true and correct
16 transcript of said hearing.

17 IN WITNESS WHEREOF, I have hereunto set my hand and affixed
18 my Notarial Seal this date of December 13, 2000.

19

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VICKI G. KASTEN
CSR #084-003245, RPR #1945

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