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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

MICHAEL D. LOGSDON, DARRELL E. MANN,  
RUSSELL SPILLMAN, MARILYN SPILLMAN,  
RITA MARTIN, ALVIN W. ABBOTT, KATHY  
ABBOTT, DIANA COLLINS, and DAVE COLLINS

Complainants,

vs.

No. PCB 00-177

SOUTH FORK GUN CLUB,

Respondents.

The following is a transcript of the above-entitled matter taken stenographically before ANN MARIE HOLLO, CSR, RPR, RMR, a notary public within and for the County of Montgomery and State of Illinois. Said hearing was taken on the 26th day of September A.D., 2002, commencing at 10:00 o'clock a.m. at the Christian County Courthouse, County Board Room, 101 Main Street, Taylorville, Illinois.

1 APPEARANCES:  
 ILLINOIS POLLUTION CONTROL BOARD  
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 By: Steven C. Langhoff, Hearing Officer  
 4  
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 9 By: Mark Rabin, Esq.  
 Appearing on behalf of the Respondent  
 10

I N D E X

	Page
11 Michael D. Logsdon	
Examination by Mr. Van Ness. . . . .	15
12    Examination by Hearing Officer. . . . .	32, 79
Alvin W. Abbott	
13    Examination by Mr. Van Ness. . . . .	82
Kathy Abbott	
14    Examination by Mr. Van Ness. . . . .	98
Darrell Mann	
15    Examination by Mr. Van Ness. . . . .	105
Examination by Hearing Officer . . . . .	127
16 Dave Collins	
Examination by Mr. Van Ness. . . . .	131
17 Brett Rahar	
Examination by Mr. Van Ness. . . . .	149

E X H I B I T S

	Marked	Admitted
19 Complainant's Exhibit No. 1	16	16
Complainant's Exhibit No. 2	33	33
20 Complainant's Exhibit No. 3	37	38
Complainant's Exhibit No. 4	49	50
21 Complainant's Group Exhibit No. 5	54	54
Complainant's Exhibit No. 6A	58	58
22 Complainant's Exhibit No. 6B	62	81
Complainant's Exhibit Nos. 7A and 7B		81
23 Complainant's Exhibit No. 8	72	73
Complainant's Exhibit No. 10	87	88
24 Complainant's Exhibit No. 12	114	114
Complainant's Exhibit No. 13	136	136

## KEEFE REPORTING COMPANY

1                   HEARING OFFICER LANGHOFF: Good morning,  
2 everyone. My name is Steven Langhoff. I'm the  
3 pollution control board hearing officer who is handling  
4 this matter, and we will be holding the hearing today.  
5 This is PCB 00-177, Logsdon, et al. versus Southfork Gun  
6 Club.

7                   For the record, it is Thursday, September  
8 26, 2002, and we are beginning at 10:03 a.m.

9                   I want to note for the record that there  
10 are several members of the public present. Members of  
11 the public are encouraged and allowed to provide public  
12 comment if they so choose.

13                   On April 25, 2000, the complainants filed a  
14 complaint alleging that the Southfork Gun Club violated  
15 Section 24 of the Illinois Environmental Protection Act  
16 in Sections 900.102 and 901.104 of the board's noise  
17 regulations.

18                   Section 24 of the Act states that no person  
19 shall emit around boundaries of property any noise that  
20 unreasonably interferes with the enjoyment of life or  
21 with any lawful business or activity so as to violate  
22 any regulation or standard adopted by the board under  
23 this Act.

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1 Kincaid, Christian County. The complainants allege that  
2 the noise from the firing of shotguns at the gun club  
3 has caused an unreasonable interference with the use and  
4 enjoyment of their properties. The complainants request  
5 that the board order the gun club to cease and desist  
6 further violations of several laws and regulations, and  
7 discontinue use of the site where the club is now  
8 located.

9 I want to take a brief moment to let you  
10 know what is going to happen today and after the hearing  
11 today. You should know that it is the pollution control  
12 board, and not me, that will make a final decision in  
13 this case. My job as a hearing officer requires that I  
14 conduct today's hearing in a neutral and orderly manner  
15 so that the board has a clear record of the proceedings  
16 here today in which to base its decision.

17 It is also my responsibility to assess the  
18 credibility of any witnesses giving testimony today, and  
19 I will do so on the record at the conclusion of the  
20 proceedings.

21 During the course of this hearing today,  
22 please feel free to call me either Mr. Langhoff or

23 Mr. Hearing Officer.

24 We will begin with opening statements from

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1 the parties, and then we will proceed with the  
2 complainants' case, followed by the gun club having an  
3 opportunity to put on a case on its behalf. We will  
4 conclude with any closing arguments that the parties  
5 wish to make. And then we will discuss off the record  
6 the briefing schedule, which will be set on the record  
7 at the conclusion of the proceedings.

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

17 This hearing was noticed pursuant to the  
18 Act and the board's rules and regulations, and will be  
19 conducted pursuant to sections 101. 600 through 101. 632  
20 of the board's procedural rules.

21 Before beginning, I will caution everyone

22 that the board hearing is much the same as being in a  
23 court. And everyone should act appropriately and with  
24 the proper decorum towards each other.

5

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1 At this time, I'll ask that the parties to  
2 make their appearances on the record beginning with the  
3 complainants.

4 MR. VAN NESS: Thank you, Mr. Hearing  
5 Officer. My name is Phillip Van Ness with the law firm  
6 of Webber and Thies in Urbana, and I'm here today on  
7 behalf of the complainant.

8 HEARING OFFICER LANGHOFF: Thank you,  
9 Mr. Van Ness.

10 I would like to note for the record that  
11 the attorney for the respondent, Gregory B. Grigsby,  
12 withdrew from representation of the gun club on May 28,  
13 2002.

14 Section 101.400 of the board's procedural  
15 rules require that Southfork Gun Club be represented by  
16 an attorney for the board, which brings us to our first  
17 preliminary matter that we need to discuss on the  
18 record.

19 Mr. Rabin?

20 MR. RABIN: Thank you, Mr. Hearing

21 Officer.

22 As I had informed counsel for the  
23 petitioners and the hearing officer prior to the formal  
24 opening of the proceedings, I have just been contacted

6

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1 by members and officers of the Southfork Gun Club  
2 seeking my help in representation of them. I'm an  
3 attorney. I practice law in Springfield, Illinois.

4 Because of my schedule and the schedule of  
5 some of the individuals who are contacting me, we could  
6 not meet until yesterday morning. I was contacted last  
7 week by phone by one of the members.

8 I am not prepared to proceed on behalf of  
9 the respondent in this case. I have no pleadings, no  
10 discovery. I don't know -- I know the factual issue is  
11 that there's an allegation of violation of the noise  
12 rules and regulations. That's all I know.

13 I am in a position where I don't know  
14 anything about the case in terms of the merits of it to  
15 allow me to go forward representing the respondent if  
16 this matter is not continued. I am appearing at this  
17 point solely for the purpose of asking for a continuance  
18 to allow me to get into the case to familiarize myself  
19 with it and to prepare. Absent that opportunity, I

20 cannot go forward on the merits, because I have no idea  
21 what the case is about factually. I haven't had a  
22 chance to interview my clients in reference to specifics  
23 of any complaint and so forth.

24 And to give you an example, I mean, I have

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1 just been handed this morning a reference to Illinois  
2 Revised Compiled Statutes Chapter 111 and 1/2, which has  
3 a provision in it for grandfathering skeet and  
4 trapshooting clubs chartered prior to a particular  
5 date. I only make reference to that, because I have no  
6 idea whether that exception applies to the Southfork Gun  
7 Club. I have not had any time to get into this.

8 So on behalf of the Southfork Gun Club -- I  
9 understand that this is the eleventh hour, or  
10 worse -- I'm asking that this matter be sent over to  
11 give me ample time to prepare.

12 I am prepared to -- I brought my calendar  
13 with me. I'm prepared to find a date that's open for  
14 the hearing officer and for opposing counsel to revise  
15 my schedule to meet whatever the hearing officer would  
16 set, and to get ready and be ready at the next hearing.

17 HEARING OFFICER LANGHOFF: Okay. Thank  
18 you, Mr. Rabin.



19 Mr. Van Ness?

20 MR. VAN NESS: Thank you, Mr. Hearing  
21 Officer.

22 I truly have sympathy for Mr. Rabin's  
23 situation. However, I have much less sympathy for the  
24 defendant in this situation. As you pointed out a few

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1 moments ago, the defendant discharged its previous  
2 attorney in this matter back in May. That's three plus  
3 months ago. They have had ample opportunity to secure  
4 counsel. And the fact that they've ambushed Mr. Rabin  
5 at the last minute speaks volumes about their  
6 willingness to go forward with this case in my view.

7 In any event, these plaintiffs are ready to  
8 go forward today. And they have spent a considerable  
9 amount of their resources and their energy. They have  
10 taken time off from work and all of that in order to be  
11 here and present the case. They have been prepared to  
12 proceed.

13 It is the defendants who are now working on  
14 their third attorney. And, frankly, it does not rise to  
15 the level of anything other than a self-inflicted wound  
16 if their counsel is not prepared to represent them  
17 today.

18 HEARING OFFICER LANGHOFF: Okay.

19 MR. VAN NESS: We would oppose the motion.

20 HEARING OFFICER LANGHOFF: Thank you,

21 Mr. Van Ness.

22 I want to note that in April 22, 2002, that  
23 a hearing officer order of mine that the president of  
24 the gun club, Mr. Binegar -- I noted in that hearing

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1 officer note that the president of the gun club,  
2 Mr. Binegar, contacted me and represented that the  
3 attorney for the gun club was withdrawing from the  
4 case. I noted in that hearing officer order that the  
5 gun club must be represented by an attorney before the  
6 board.

7 In another hearing officer order, May 20,  
8 2002, I again noted that the gun club must be  
9 represented by an attorney for the board.

10 And on May 28, 2002, the attorney for the  
11 gun club, Mr. Greg Grigsby, withdrew.

12 I'm going to deny your motion for the  
13 continuance, Mr. Rabin.

14 MR. RABIN: Okay.

15 HEARING OFFICER LANGHOFF: Thank you.

16 MR. RABIN: Thank you, Mr. Hearing

17 Officer.

18 As I stated when I asked for the motion, I  
19 am not going to take part on the hearing on the merits.  
20 I'm totally unprepared to do so. And I think it would  
21 be in error -- and I hate to use the word, but I think  
22 it would be "malpractice" for me to try to proceed on  
23 the merits of the case.

24 HEARING OFFICER LANGHOFF: I want to note,

10

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1 Mr. Rabin, that I will be asking for the submission of  
2 briefs after this case. Although I haven't come to any  
3 kind of briefing schedule, of course, I had thought to  
4 give the complainants 30 days to file a brief, and then  
5 the gun club 30 days after that brief to file a brief.  
6 That's just something you may want to consider, the gun  
7 club may want to consider, where you can argue legal  
8 positions and argue the weight of the evidence.

9 MR. RABIN: If I may, if the hearing  
10 officer will enter that order and then serve a copy on  
11 the gun club, then if they want me to review it and file  
12 a brief, I'll be glad to discuss that with them and see  
13 if arrangements can be made.

14 HEARING OFFICER LANGHOFF: I will add you  
15 to the service list, and I'll go ahead and put that in

16 the order.

17 MR. RABIN: Thank you.

18 HEARING OFFICER LANGHOFF: Usually I just  
19 do it at the end of the transcript, but we'll go ahead  
20 and get you notified and get you served.

21 MR. RABIN: I appreciate that.

22 HEARING OFFICER LANGHOFF: No problem.

23 Thank you.

24 MR. RABIN: The members -- some of the

11

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1 members of the gun club are here. I'm going to ask them  
2 to step out in the hallway with me and talk with me for  
3 just a couple of minutes. But subject to the approval  
4 of the hearing officer, I'm going to depart.

5 HEARING OFFICER LANGHOFF: Okay. And in  
6 fact, I will -- we'll just go off the record for about  
7 three minutes so you can talk to all the members of the  
8 gun club that you want to, and we'll come back in the  
9 record when you come back in the room. I'll ask you to  
10 come back as quickly as you can. Three or five minutes  
11 please.

12 [Brief break.]

13 HEARING OFFICER LANGHOFF: We're back on

14 the record.

15                   Are there any other preliminary matters,  
16                   outstanding motions or pre-hearing motions that you'd  
17                   like to present before we proceed?

18                   MR. VAN NESS: None that I'm aware of, Your  
19                   Honor.

20                   HEARING OFFICER LANGHOFF: Thank you.

21                   Would the complainants like to give a brief  
22                   opening statement?

23                   MR. VAN NESS: Yes, we would.

24                   For the record, this case is, in the first

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1                   instance, about noise pollution. The complainants will  
2                   show overwhelmingly and beyond all reasonable doubt that  
3                   the Southfork Gun Club, an Illinois corporation, founded  
4                   to operate trapshooting activity on land leased from the  
5                   Village of Kincaid, has repeatedly and egregiously  
6                   violated the State of Illinois Laws and board  
7                   regulations thereunder against noise pollution; imposing  
8                   untold and unreasonable suffering upon the complainants  
9                   and unreasonably interfering with the enjoyment of their  
10                  homes.

11                  Complainants will amply demonstrate that  
12                  this noise pollution consisted primarily of furious and  
13                  frequent shotgun blasts often numbering in the hundreds

14 per hour conducted only a few hundred feet from the  
15 complainants' private residences, drove the complainants  
16 from their yards, tortured them in their homes, denied  
17 them sleep, endangered their health, endangered their  
18 coworkers on the job, strained their emotions and  
19 negatively impacted their families, their social life  
20 and their property values.

21 But this case is also about deceit,  
22 arrogance and disdain for the public welfare and the  
23 welfare of their neighbors.

24 For this respondent accomplished this

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1 pollution through deceit, fraud, and relies on the  
2 political "Good Ole' Boy" system that deceived or  
3 attempted to deceive the attorney general, the County of  
4 Christian and indeed this pollution control board.

5 We are here before the board today,  
6 notwithstanding that we recently obtained a permanent  
7 injunction against the respondent, because that  
8 "Good Ole' Boy" network threatens to once again release  
9 the sounds of war on Respondent's neighbors and thumb  
10 its nose at this board and the rule of law.

11 In short, Complainants will show that  
12 absent the sternest monetary penalties and absolutely

13 unambiguous order from this board mandating this  
14 respondent to cease and desist from emitting noise  
15 pollution in any form, this respondent will not ever  
16 willingly comply with the laws and regulations governing  
17 noise pollution in this state.

18 HEARING OFFICER LANGHOFF: Thank you,  
19 Mr. Van Ness.

20 Would you like to call your first witness  
21 please.

22 MR. VAN NESS: Yes. The complainants call  
23 Mr. Michael Logsdon.

24 HEARING OFFICER LANGHOFF: Mr. Logsdon, you

14

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1 can come up right here and have a seat please.

2 [Witness sworn.]

3 HEARING OFFICER LANGHOFF: Thank you.

4 MICHAEL D. LOGSDON

5 of lawful age, being produced, sworn and examined on  
6 the part of the Complainants, testifies and says:

7 EXAMINATION

8 QUESTIONS BY MR. VAN NESS:

9 Q. Mr. Logsdon, for the record, can you state  
10 your full name.

11 A. Michael D. Logsdon.

12 Q. And where do you live?

13 A. 1571 North 900 East Road, Taylorville,  
14 Illinois.

15 Q. And when did you move in?

16 A. August of 1996.

17 Q. Now, could you describe the nature of the  
18 area that you moved into when you moved in there?

19 A. Yes. It's a rural area. It's quite  
20 pleasant. I have about an acre and a half right next to  
21 the Kincaid City Lake. And it's a really beautiful area  
22 there, quite peaceful; friendly neighbors.

23 Q. When you moved in, was there a home there,  
24 or did you build your home?

15

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1 A. There was a home there.

2 Q. I see. So it had been there for some time  
3 before you moved in?

4 A. Yes.

5 MR. VAN NESS: I'm going to -- this is  
6 going to be a little difficult for me, but I'll produce  
7 it.

8 HEARING OFFICER LANGHOFF: Sorry.

9 [Complainant's Exhibit Number 1 was  
10 marked for identification.]



11 Q. (By Mr. Van Ness) I'm going to hand you  
12 what's been marked Complainant's Exhibit Number 1 for  
13 identification.

14 A. Yes.

15 Q. Do you recognize that, sir?

16 A. Yes. It's a map of the area there by where  
17 I live, including the area where I live.

18 Q. And why don't you describe generally some  
19 of the features that you see there. For instance,  
20 there's an irregular shape, sort of in the left center  
21 of the photograph -- of the map, isn't there?

22 A. Yes.

23 Q. And this is labeled Lake Kincaid; is that  
24 correct?

16

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1 A. Yes.

2 Q. Now, are you familiar with Lake Kincaid?

3 A. Yes.

4 Q. In fact, you've used it for recreational  
5 purposes, haven't you?

6 A. When we first moved in there, yes.

7 Q. I see. And do you recall where you  
8 obtained this map?

9 A. I believe originally I received a copy from

10 the previous owner, and I also obtained copies from the  
11 county on a Freedom of Information Act.

12 Q. Under the Freedom of Information Act?

13 A. Yes.

14 Q. And is a portion of the map from the zoning  
15 office; is that a fair statement? I mean, I assume  
16 that's where you went in the county to get the map?

17 A. Yes, yes, yes.

18 Q. I'm going to hand you a blue pen, if you  
19 will.

20 A. Okay.

21 MR. VAN NESS: And, first of all, let me  
22 move for admission of this into evidence.

23 HEARING OFFICER LANGHOFF: It's admitted.  
24 Exhibit 1 is admitted.

17

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1 [Complainant's Exhibit Number 1 was  
2 admitted into evidence.]

3 MR. VAN NESS: Okay.

4 Q. Can you indicate in  
5 writing -- and I will note for the record that you're  
6 utilizing a blue pen, blue ink pen. Will you indicate  
7 in writing on Complainant's Exhibit 1 who and what  
8 occupies each of the parcels of land that are indicated

9 on that map. Let's start with the smallish parcel at  
10 the lower right middle of the map. Do you see that,  
11 sir?

12 A. No. I'm not sure what you mean there.

13 Q. I'm looking at the parcel that has a little  
14 notch taken out of the lower left-hand side of it, and  
15 it has the number 5.02 in the middle of it.

16 A. Yes.

17 Q. Do you recognize that, sir?

18 A. Yes, I do.

19 Q. And do you know who lives there?

20 A. Yes. I believe that is the Martin  
21 residence.

22 Q. That would be Rita Martin?

23 A. Correct.

24 Q. One of the complainants?

18

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1 A. Should I write that on the map?

2 Q. Yes, please. Write "Martin" on that  
3 please.

4 A. [Witness indicated.]

5 Q. And does Rita Martin live -- does she have  
6 a residence there --

7 A. Yes.

8 Q. -- on that property? Okay.

9 Now, moving up from there. There's another  
10 parcel that indicates 5.00 in the middle of that  
11 parcel. Can you indicate whether you're familiar with  
12 that property?

13 A. Yes. That's Mr. Zini's property.

14 Q. Why don't you write that name in there  
15 please.

16 A. [Witness indicated.]

17 Q. Now, I see there are two parcels  
18 immediately north of the Zini property; is that correct?

19 A. That's correct. One of those being  
20 Mr. Abbott's, and the one behind it being mine.

21 Q. Now, why don't you label the one that  
22 belongs to Mr. Abbott.

23 A. Okay.

24 Q. And for the record, is that the one that

19

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1 has the number 008 and then 1.50 underneath it?

2 A. Yes, that's correct.

3 Q. All right. But that would be Mr. and  
4 Mrs. Abbott's property; is that correct?

5 A. Yes, that's correct.

6 Q. And you've written that in there?

7 A. Yes, I have.

8 Q. Why don't you mark now your residence or  
9 your property.

10 A. All right.

11 Q. And for the record, is that not the parcel  
12 that is marked 011 and then has 1.50 AC below that?

13 A. Yes, that's correct.

14 Q. I'm assuming that refers to 1.5 acres?

15 A. Yes, it does.

16 Q. Now, immediately north of your property and  
17 the Abbotts' property, there is another longer piece of  
18 property, is there not?

19 A. The 10 acres or --

20 Q. No, sir. I'm looking at a piece of  
21 property that has .0 -- 007, rather, and 4.79 AC?

22 A. Yes. That would be the Collins' property.

23 Q. I see. Would you label that please.

24 A. Yes.

20

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1 Q. Now, the Collins' property, there's another  
2 larger piece of property. Can you describe whose  
3 property that is?

4 A. That's Mr. Mann's property.

5 Q. And you're referring to Darrell Mann?

6 A. Darrell Mann who is also a complainant.

7 Q. Thank you. Would you label that please.

8 A. Yes.

9 Q. And for the record, that's the parcel  
10 that's indicated by a "dash" 005 and it shows 10.00  
11 acres?

12 A. Correct.

13 Q. Now, can you describe the property in the  
14 opposite side of the Lake Kincaid from your property?

15 A. Yes.

16 Q. Let me call that back.

17 Why don't you describe the property across  
18 the lake from you as it appeared to you when you moved  
19 in, in 1996.

20 A. When I moved in, in 1996, it was -- well,  
21 the property, first of all, belonged to the Village of  
22 Kincaid. And there's a nice lake there, and it's all a  
23 wooded area all around. And the area directly across  
24 and in the center was kind of like a big park on the

21

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1 city property over there, an open park, not mowed very  
2 often, but there for public use and stuff.

3 Q. To the best of your recollection, were  
4 there any above-ground structures in place on that

5 property when you moved in?

6 A. No.

7 Q. Has the character of that property that  
8 we're discussing now changed since you moved in?

9 A. Yes, absolutely.

10 Q. What was the first time you observed the  
11 first of those changes?

12 A. You mean as far as activity on the  
13 property, or just physical changes to the property?

14 Q. When did you notice that there was some  
15 changes over there?

16 A. Well, in August in '98 towards the end of  
17 August, there started to be a lot of shooting on the  
18 property over there. Previous to that, it was a few  
19 rabbit hunters, people squirrel hunting and stuff like  
20 that in the two years previous. But like I say, towards  
21 the end of August, the last couple of days of August and  
22 from there on for quite some time, there was shooting on  
23 almost an everyday basis on the property.

24 Q. How did you know that the shooting that was

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1 going on there was not just some more squirrel hunters  
2 over there?

3 A. You could observe the people doing the

4 shooting from walking down to Mr. Collins' property.  
5 There's so much shooting going on, that I walked down  
6 there to see what was going on, and I also drove over  
7 there and observed the shooting, too.

8 Q. Can you describe the kind of firearms that  
9 were being used?

10 A. Shotguns.

11 Q. Did you observe anything else out there  
12 besides shotguns?

13 A. In the line of weaponry?

14 Q. No, just in terms of any structure or  
15 building.

16 A. Eventually, there was a rather large  
17 building put on the property there, yes. I can't recall  
18 the exact date of when the building was put there. But,  
19 yes, they began construction several months later on,  
20 after the shooting began of a rather large facility.  
21 And then I learned that it was the property that had  
22 been leased to the Southfork Gun Club, and they were  
23 putting up the structure. Previously to that, myself  
24 and the neighbors assumed that the village was actually

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1 putting up a structure there.

2 Q. Describe the structure. What does it look



3           like?

4                   A.     I don't know.  I would guess it's a 20 -- I  
5           don't know the exact measurements, but I would guess 24  
6           by 50 or 60 foot building, with a few windows and a  
7           couple of doors.

8                   Q.     Okay.  Anything else -- was anything else  
9           erected on that property?

10                  A.     Yeah.  Eventually after a period of time,  
11           there were quite a few light poles and lights installed  
12           for the purpose of shooting at night.

13                  Q.     I see.

14                  A.     By the gun club.

15                  Q.     Can you characterize -- I'm sorry.

16                  A.     It lights up like a ballpark.

17                  Q.     Ballpark lighting?

18                  A.     Ballpark lighting, yes.  It can be observed  
19           five miles a way, four miles a way in Taylorville, in  
20           the fall when the leaves are off the trees, you can  
21           observe it from the Wal-Mart, which is four miles away.

22                  Q.     So for the record, to draw a picture for  
23           the pollution control board, would these lights be  
24           similar to the kind of the standards you might have at

24

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1           an outdoor football game?

2           A.     Same as Wrigley Field.

3           Q.     Okay.  Do you recall when those lights were  
4 put up?

5           A.     They were put up over a period of time, a  
6 few at a time.  I don't recall the exact date when they  
7 began.  But at first, there was just a couple, and then  
8 they added to it until there was several.  I don't know  
9 the exact number.

10          Q.     I'm going to ask you to use this pink  
11 highlighter.  We're colorful today.  I'm going to ask  
12 you to indicate roughly on the map where the shooting  
13 activity that you're referring to had taken place.

14          A.     Would you like me to position the structure  
15 in their line of fire?

16          Q.     No.  You don't have to draw that.  Just  
17 draw a blob, if you will, whatever turns you on, in  
18 order to represent where the shooting activity took  
19 place.

20          A.     Okay.

21          Q.     I am going to give you a red pen now.  
22 We're going to have lots of fun with this.  Would you  
23 indicate with the red pen by a couple of straight lines  
24 perhaps the general direction of gunfire as you've

1 observed it.

2 A. Yes.

3 Q. Let the record show that the witness has  
4 indicated with some straight lines emitting from the  
5 area that he's marked with pink the direction of fire.

6 Now, using the dimensions shown on the map,  
7 can you, and in your own experience, of course, as a  
8 resident, can you estimate the distance from the  
9 shooting area that you've indicated with the pink marker  
10 to your property.

11 A. Yes. Using the 1,320 feet on here and  
12 measuring to my residence, it's about -- approximately  
13 600 feet to my residence, 600 to 700 feet.

14 Q. And is that to your residence or to your  
15 property line?

16 A. That would be about, I would say, 600 to  
17 the edge of my property, and probably another 150 feet  
18 to my residence.

19 Q. Thank you.

20 A. Just guessing.

21 Q. Now, you mentioned earlier when you were  
22 doing that, that you said something about 1,320 feet.  
23 What were you referring to? Were you referring to a  
24 marking on the map?

1           A.     Yes.  I was referring to a marking on the  
2 map of 1321.37, which was 1321.37 feet.

3           Q.     So you were using that as a reference  
4 point?

5           A.     Yes, for a form of measurement.

6           Q.     Do you recall when you first and how you  
7 first became aware of organized activity at the area  
8 you've indicated, the shooting area?

9           A.     Well, after they started shooting at the  
10 end of August, it was pretty regular shooting, and it  
11 happened on a fairly regular basis.  As far as organized  
12 meets, etcetera, I'm not sure exactly when those  
13 organized meets began.  I am aware that the club became  
14 incorporated in January of '99, about five months after  
15 the shooting started in August.

16          Q.     Were there any other manifestations,  
17 advertisements in the newspaper or anything of that  
18 sort?

19          A.     Yes.  They did advertise in the newspaper.

20          Q.     And what kind of advertising was it?

21          A.     I believe they advertised looking for  
22 membership and advertised open shoots and different  
23 competitive shoots, inviting people to come and shoot,  
24 etcetera.  And they also, after their organized shooting

1 began, they -- I know they posted their shooting scores  
2 in the newspaper on a regular basis from the different  
3 members.

4 Q. Do you recall seeing any posted scores  
5 previously to that?

6 A. No. I don't get the newspaper on a regular  
7 basis, but some of our neighbors do, and they had made  
8 me aware of the posting of the scores, etcetera.

9 Q. What was the noise like?

10 A. Miserably obnoxious.

11 Q. But in exactly what way was it miserably  
12 obnoxious to you?

13 A. Well, there was -- it was so loud and  
14 constant and overbearing, I mean, their shooting varied  
15 at different hours. Sometimes they would start -- well,  
16 they had advertisement shoots where they would start and  
17 open the club at 8:30 in the morning. And, you know,  
18 shooting would start thereabouts around 8:00, 8:30 when  
19 they did open, and sometimes continue on until 10:00,  
20 11:00, 12:00 at night. And there's no pleasure in being  
21 outside with thousands of rounds of ammunition being  
22 fired off 600 feet away from you. It's just  
23 overwhelming.

24 Q. It was typically heavier volume of shooting

1 at some hours than others?

2 A. Yes. It varied. When they first opened,  
3 there were people coming and going. And you could tell  
4 due to the limited shooting, that there was only a  
5 couple of people practicing at various times.

6 And then, of course, when they had their  
7 regular shoots, well, I took the meter readings and kept  
8 track of the shooting, and sometimes there was as many  
9 as, you know, 16 or so rounds per minute being fired off  
10 for several hours at a time. They'd have intermediate  
11 breaks that they would take.

12 Q. How many -- normally how many people would  
13 be shooting at the heaviest time of volume? I mean, how  
14 many people would be out there with firearms actually  
15 discharging?

16 A. Well, I believe with the way their traps  
17 were set up, there was probably maybe three or four  
18 people shooting at one time. I'm not positive about  
19 that, but they'd line up. We took some videos where  
20 they had several people lined up shooting as the clay  
21 pigeons were put out for them to shoot.

22 Q. So it was more than one or two individuals?

23 A. Yes, except during their practice.  
24 Sometimes there would be one or two people -- two people

1 coming out practicing at times.

2 Q. Did you ever have occasion to record the  
3 sounds that you were hearing from the gun club?

4 A. Yes, I did. I have a tape in my tape  
5 player, I believe.

6 Q. Do you have a tape in your tape player?

7 A. Yes, correct.

8 Q. For the record, I'm holding a small  
9 personal tape player that holds a mini-sized tape. And  
10 is it your testimony that this tape was used by you in  
11 order to record the sounds coming from the gun club?

12 A. Yes, yes.

13 Q. Do you recall the circumstances under which  
14 those sounds were recorded?

15 A. I believe it was after it was requested by  
16 you to record those.

17 Q. Roughly what year?

18 A. I believe those were made in 2000, if I  
19 remember correctly. I'd have to look at my notes.

20 Q. Does it say -- do you say on the tape when  
21 these shots were taken?

22 A. I believe I do. On one of my tapes, not  
23 knowing that it would be drawn out for so many years, I  
24 believe I left the year out and just give -- stated the

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1 date, month.

2 Q. On this particular tape, though, sir, this  
3 tape in this machine, do you recall what date that was?

4 A. I'd have to --

5 Q. Roughly.

6 A. -- look at it and see.

7 Q. Okay. Let me hand it to you.

8 A. Thanks.

9 MR. VAN NESS: Mr. Hearing Officer, I have  
10 a label for it, that we can put on it.

11 THE WITNESS: Okay. This tape was taped  
12 while I was using the meter. I believe I do have the  
13 date on here.

14 Q. (By Mr. Van Ness) Okay. It would be on  
15 the audio portion of the tape?

16 A. Correct.

17 Q. Did you record that particular tape -- go  
18 ahead and put it back in the machine if you want. Did  
19 you record that tape on that machine?

20 A. Yes, I did.

21 Q. So did you do anything with that machine to  
22 increase the volume so that the noise would appear  
23 louder than it would normally?

24 A. No, absolutely not. It's a normal



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1 recording.

2 MR. VAN NESS: Mr. Hearing Officer, I'd  
3 move the acceptance of that tape into evidence as  
4 Complainant's Exhibit 2 for identification, and for  
5 admission. And I have a label for that, that we can put  
6 on it after we play it.

7 HEARING OFFICER LANGHOFF: I have one  
8 question before we admit it.

9 EXAMINATION

10 QUESTIONS BY HEARING OFFICER LANGHOFF:

11 Q. And that is, you took that standing on your  
12 property?

13 A. Yes. Well, actually, I have a picnic table  
14 off of my back porch. And I took my sound meter  
15 readings from there. And I have read the documentation  
16 from the pollution control board on being at least 25  
17 feet away from any structures and stuff. So I moved out  
18 away, onto the picnic table in the middle of my back  
19 yard.

20 Q. In between the property line and your  
21 house?

22 A. Yes.

23 HEARING OFFICER LANGHOFF: I'll admit

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1 [Complainant's Exhibit Number 2 was  
2 marked and admitted into evidence.]

3 MR. VAN NESS: Thank you.

4 HEARING OFFICER LANGHOFF: Did you want to  
5 play just a little bit of it?

6 MR. VAN NESS: I'd just like a minute or  
7 two.

8 HEARING OFFICER LANGHOFF: Okay.

9 MR. VAN NESS: From our understanding from  
10 last week, we are not going to play the entire tape.

11 HEARING OFFICER LANGHOFF: No. Thank you.

12 Q. (By Mr. Van Ness) So if you would, sir,  
13 just go ahead and play it.

14 A. I did some narrating on here. I could just  
15 fast-forward it to just shooting.

16 Q. Why don't you just fast-forward to the  
17 shooting. And indicate, if you will, your marker  
18 setting when you start to play and fast-forward it.

19 A. Okay.

20 Q. What's the meter reading, sir? Oh, still  
21 talking?

22 A. It's talking.

23 Q. What's the meter reading, sir?

24 A. Excuse me?

33

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1 Q. What's the --

2 A. The meter is reading?

3 Q. The tape counter.

4 THE WITNESS: Could you help me there,

5 Mr. Langhoff? I don't have my reading glasses.

6 HEARING OFFICER LANGHOFF: Yes. 038.

7 MR. VAN NESS: Okay. Thank you. Go

8 ahead.

9 HEARING OFFICER LANGHOFF: Why don't you

10 just play it for 30, 15 seconds, whatever you're

11 comfortable with.

12 [Listening to the audio tape.]

13 MR. VAN NESS: That's fine.

14 HEARING OFFICER LANGHOFF: And what's

15 the -- I'm sorry. May I have the tape please?

16 And for the record, we ended on 044. Thank

17 you. Are you finished with that?

18 MR. VAN NESS: I'm finding my place,

19 Mr. Hearing Officer.

20 Q. I was going to ask you, and

21 then I will -- even though you've already responded to

22 the hearing officer, if you would be so kind as to mark  
23 where you were standing when you took that recording.

24 A. On the map?

34

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1 Q. Go ahead and use the red pen and just mark  
2 that.

3 A. Okay. I've indicated the "X" is the  
4 approximation of where my picnic table was where I took  
5 the readings.

6 Q. Okay, thank you. Now, did you have  
7 occasion to measure the sound levels of the noise that  
8 you heard coming from the gun club?

9 A. Yes, I did.

10 Q. And how did you do that?

11 A. I purchased a analog sound meter from Radio  
12 Shack and took readings with that and wrote them down.

13 Q. Did you make a record of those readings?

14 A. Yes.

15 Q. Why don't you describe your methodology,  
16 the methodology that you used to make those readings.

17 A. Well, I went -- when I took the meter  
18 readings, I had read the instructions from the pollution  
19 control board after communicating with them about how  
20 far to take the readings. I had also spoke with a

21 Mr. Greg Zak with the EPA, who is a noise specialist,  
22 and he was helpful in telling me how to take the  
23 readings and stuff and get proper readings.

24 And so I would take the meter, sit on my

35

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1 picnic table, and jot it down while taking the  
2 readings. After setting the meter where it was -- the  
3 needle was bouncing in the middle at the range where  
4 they're shooting at the noise level.

5 Having read the instructions that also come  
6 with the meter, and as I recall, I took it -- there's  
7 two different types of settings on the meter, I believe,  
8 and I had taken it both ways. I believe there's a fast  
9 and a slow setting, if I remember correctly, or fast  
10 response.

11 Q. Well, here. Here's the meter itself.

12 A. Yes. There's the fast and slow, and then  
13 there's the A, C weighting. And I believe when I took  
14 those readings, I took them both ways and recorded  
15 those.

16 Q. And when you changed the way you were  
17 recording, in other words, when you said from fast to  
18 slow or from A to C, did you indicate that on your  
19 notes?

20                   A.     I believe I did.  
21                   Q.     You're not sure?  
22                   A.     I'm not sure.  
23                   Q.     Okay.  
24                   A.     I'm not sure.  I did notice that the only

36

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1           difference between the fast and the slow was actually  
2           the response of the needle while I took the readings.  
3           That if it was on slow, the needle responded running  
4           back down to it at a slower pace.  And when it was on  
5           fast -- when it became necessary to have it on fast to  
6           take the readings is when they were shooting one shot  
7           after another in order to get a correct reading.

8                                 [Complainant's Exhibit Number 3 was  
9                                 marked for identification.]

10                   Q.     (By Mr. Van Ness)  I'm going to hand you  
11           what's been marked Complainant's Exhibit Number 3 for  
12           identification and ask if you recognize that.

13                   A.     Yes.

14                   Q.     Would you describe it.

15                   A.     Excuse me?

16                   Q.     Is that not in fact the record of the sound  
17           meter readings that you mentioned previously?

18                   A.     Yes.

19 MR. VAN NESS: I move for admission,  
20 Mr. Hearing Officer. I have the original. Do you want  
21 the original? I can give you the original. I just have  
22 a photocopy. I figured that would be easier.

23 HEARING OFFICER LANGHOFF: I'll admit it.  
24 Exhibit 3 is admitted for the record.

37

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1 [Complainant's Exhibit Number 3 was  
2 admitted into evidence.]

3 Q. (By Mr. Van Ness) I'm going to ask you to  
4 look at the first page of what's been marked now as  
5 Complainant's Exhibit 3, and ask you if you can explain  
6 to me the entries that you've placed there.

7 A. Yes. I wrote down the time that shooting  
8 was occurring. First I wrote it down at 1:30 p.m. And  
9 that there was during that approximate minute there,  
10 there was one, two, three, four, five, six, seven shots  
11 fired, and the meter reading that was put out at 72 DB,  
12 72, 72, 77, 72 and 72.

13 Q. So the numbers reflect the decibel readings  
14 that you record?

15 A. The decibel readings on the meter I was  
16 using, correct.

17 Q. Before we get to that, did you not indicate

18 the date at the top of that sheet?

19 A. Yes, I did. It was May 30th of 2000.

20 Q. And that was the date upon which these  
21 readings were taken?

22 A. Yes, that's correct.

23 Q. Now, there's an entry also on the upper  
24 right-hand corner on the page?

38

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1 A. Yes.

2 Q. Would you read that into the record  
3 please.

4 A. Recorded at Collins' residence.

5 Q. And would you indicate please where you  
6 were standing when you were taking these readings.

7 A. I was at the edge of Mr. Collins' property  
8 facing towards the gun club.

9 Q. Why don't you use your red pen again and  
10 indicate on Mr. Collins' property where you were  
11 standing.

12 HEARING OFFICER LANGHOFF: Use the blue  
13 pen, Mr. Logsdon, and just write a little "X" where you  
14 were, just like you did with the red pen on your  
15 property, except now you're on Mr. Collins' property.

16 THE WITNESS: All right. I've indicated



17 with a blue "X" approximately where I was at.

18 HEARING OFFICER LANGHOFF: Thank you.

19 Q. (By Mr. Van Ness) Okay. Now, let's skip  
20 around. I see an entry for several minutes running  
21 between 1:30 p.m. and 1:39 p.m.; is that correct?

22 A. Yes.

23 Q. Why don't we look at the readings for 1:39  
24 p.m. Can you describe those for the record please?

39

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1 A. Yes. I was taking the readings one minute  
2 at a time and recorded how many shots were fired. And  
3 at 1:39, during that one minute, there were one, two,  
4 three, four, five, six, seven, eight, nine, ten, eleven  
5 rounds fired that I could hear. And recorded from the  
6 meter at 70, 68, 72, 72, 70, 70, 70, 68, and 72, 68  
7 decibels according to the meter I used.

8 Q. Now, turn to the second page of Exhibit 3.

9 HEARING OFFICER LANGHOFF: Mr. Van Ness --

10 MR. VAN NESS: Yes?

11 HEARING OFFICER LANGHOFF: -- will you  
12 approach? I want to go off the record for just a  
13 second.

14 [Off-the-record discussion.]

15 HEARING OFFICER LANGHOFF: Back on the

16 record. Thank you.

17 Q. (By Mr. Van Ness) Mr. Logsdon, I see  
18 readings also on the second page, do I not?

19 A. Correct.

20 Q. And you've indicated on that second page  
21 midway down the page on the left side, it says  
22 A weighting fast response?

23 A. Correct. That was the setting that I used  
24 on the sound meter.

40

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1 Q. To what readings on this page does the  
2 A weighting fast response refer?

3 A. All the readings on this page.

4 Q. Including the one under 7:15? At 7:15  
5 p.m.?

6 A. Yes.

7 Q. All of the readings on this page were taken  
8 on A weighting fast response basis?

9 A. That's correct.

10 Q. Now, were these readings on the second page  
11 taken at the same location as the readings on the first  
12 page?

13 A. No, they were not. These were taken from  
14 the picnic table off of my back porch.

15 Q. And that is signified at the top of the  
16 page, is it not?

17 A. Yes.

18 Q. Would you read that into the record  
19 please.

20 A. "Radio Shack analog sound level meter  
21 readings taken from Logsdon back porch."

22 Q. So now from the time you've taken the  
23 readings at the Collins' residence property, you had  
24 moved over to your own back porch area?

41

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1 A. Yes. It was about five or six hours later,  
2 five hours later, yes.

3 Q. Is it your testimony that you were still 25  
4 feet away from the structure?

5 A. Yes. I was on the picnic table.

6 Q. Now, I see some of these readings range  
7 from the very low 70s -- I don't see any 60 readings  
8 here -- to the upper 60s. I'm sorry. Upper 70s.

9 A. Yes, that's correct.

10 Q. And I'll ask you whether in the course of  
11 taking those readings, you had to adjust the setting on  
12 your sound meter in order to get an accurate reading?

13 A. Yes. In order to read the meter of

14 anything below 70 for instance, if the needle was to  
15 drop down to the negative 10, you'd have to reset it  
16 down to 60 in order to get a correct reading. If it  
17 read between -- if it was set on 70 and it read plus 2,  
18 then of course it was 72 decibels. If it read minus 2,  
19 then that would have made it 68.

20 Q. If the sound was consistently down to the  
21 60s, would you have had to move the dial?

22 A. Yes. You'd have to reset -- if it was  
23 consistently in the 60s, you would set it on 60, and  
24 then it would show what range in the 60s above the zero

42

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1 mark that they were shooting at. And then if it dropped  
2 below, then of course it was in the 50 range, which that  
3 didn't happen.

4 Q. I think that's all I'll ask you about  
5 that. Thank you.

6 HEARING OFFICER LANGHOFF: And while we  
7 have a second, may I have the meter please?

8 THE WITNESS: Yes, sir.

9 HEARING OFFICER LANGHOFF: Thank you.

10 For the record, this is Radio Shack sound  
11 level meter, and on the back it's listed as catalogue  
12 number 33-2050. And I'm sure the board is very familiar

13 with this kind of Radio Shack meter. I've seen it  
14 several times myself in hearings. Okay.

15 MR. VAN NESS: We were going to put that  
16 in, but thank you for doing it for us.

17 HEARING OFFICER LANGHOFF: Thank you.

18 Q. (By Mr. Van Ness) Let's go in a little bit  
19 different direction now.

20 What effect has the shooting activity that  
21 you've recorded that you've told us about had on the  
22 quality of your life?

23 A. It's changed it quite a bit. Like I said,  
24 the first couple of years I moved there, it was a lovely

43

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1 place. It was quiet. Good fishing in the lake, enjoyed  
2 being outside, picnicking and such. And after the  
3 shooting started, and the more constant it was on a  
4 daily basis, the more miserable I became. There's no  
5 enjoyment outside.

6 The constant -- like I said, sometimes it  
7 started at 8:00 in the morning and shoot until midnight,  
8 and there's no resting.

9 You know, and they advertise these shoots  
10 that started at 8 o'clock in the morning or 8:30 in the  
11 morning. And they would invite all kinds of people to

12           come throughout the day. And people would come and go  
13           constantly. And so there was a range of shooting. I  
14           doubt very much that anyone there shot from 8:30 in the  
15           morning until midnight. I doubt if they could hold a  
16           shotgun that long, but the people come and go  
17           constantly.

18                         For instance, we recently had a barbecue at  
19           Mr. Mann's house. I was speaking to a young lady that  
20           shot at the club, and she said that they would come out,  
21           her and her husband, and they would shoot their, I  
22           believe, 50 rounds, or something like that, however many  
23           they shoot, and then they'd leave, you know. And that's  
24           how -- people were coming and going constantly, and

44

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1           there was no joy.

2                         When they first started, I went over there  
3           on one occasion. My children were out fishing in a boat  
4           and come running up through the yard. "Dad, Dad, Dad,  
5           they're shooting at us." I said, "What do you mean  
6           they're shooting at you?" Well, "A buckshot landed on  
7           us in the boat." I said, "Well, I don't think they were  
8           shooting at you, but I'll go talk to them."

9                         And I went over there, and there were just  
10          four gentlemen there. And I asked them, and they were

11 just using a small hand trap thing that they were  
12 loading up and cocking it by hand. And I asked them to  
13 please not shoot in the direction of the lake because  
14 the kids were out there fishing. And they said, you  
15 know, that they didn't think they shot that way, but  
16 that they'd be sure they didn't.

17 And so that was my first encounter,  
18 actually, with anyone at the club is those gentlemen. I  
19 don't know who they were. They were polite about it.  
20 This was before there was any structure there or  
21 anything. Once the structure was up, and the daily  
22 shoots or regular shooting started on a daily basis,  
23 there was just no peace or enjoyment in my life.

24 I retired from the railroad in '96 and

45

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1 bought the -- my log home there for the purpose of  
2 retirement and enjoying the fishing and the outdoors  
3 there, and all that was taken away from me.

4 Q. When you -- strike that.

5 Has the noise coming from the gun club  
6 affected your sleep?

7 A. Yes.

8 Q. In what way?

9 A. When they're shooting, you can't sleep.

10 Q. You can hear the sounds inside your home?

11 A. Absolutely.

12 Q. To the best of your knowledge, is the noise  
13 coming from the gun club area affected your physical  
14 health?

15 A. Yes. A lack of sleep. The whole situation  
16 has been so overwhelming with the way it's been handled  
17 through the course in the last couple of years since I  
18 first wrote a letter, and I think it was November of  
19 2000. I think I wrote a letter to the village and stuff  
20 and to the county and several other people. As I  
21 recall, I sent copies, you know, trying to work  
22 something out with them as far as controlling the hours  
23 of the shooting and stuff. And, of course, there was  
24 just no response from anyone in regards to that. So

46

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1 then we pursued the legal courses that we've taken. I  
2 got in touch with the EPA.

3 Q. You're getting a little afield with my  
4 question.

5 A. I'm sorry.

6 Q. But that's fine. Would you have an opinion  
7 as to whether the noise has affected your emotional  
8 health?



9 A. Yes, it has.

10 Q. In what way?

11 A. In quite a few ways. Since all this began,  
12 I do my -- I have my medical provided by the Illinois  
13 Veterans Department of Veterans Affairs, and I've been  
14 on antidepressants, anxiety medication. The whole  
15 situation has just been constantly overwhelming.

16 And at one stage, you think you've got it  
17 solved and everything is over with. For instance, a  
18 temporary injunction. We got a little peace. And even  
19 after that, there was the anticipation of shooting and  
20 stuff.

21 And then to get a permanent injunction, and  
22 then you think you've got it solved. And then here we  
23 are going at it again with filing for reconsideration on  
24 what's already been determined to be illegal and stuff.

47

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1 And it's just a constant mental strain and stress of  
2 having to deal with it.

3 Q. Now, when I'm asking about mental stress,  
4 I'm specifically asking about any stress occasioned by  
5 the noise itself.

6 A. Oh, the noise is overwhelming. The kids  
7 couldn't play in the yard. They weren't safe out in the

8 boat. I can't put it into words.

9 Q. Thank you. When the shooting started, did  
10 you and or your neighbors take any action?

11 A. Yeah. I wrote a letter -- that was my  
12 first course of action -- I believe to the gun club and  
13 the village. I'm not sure I addressed it to both of  
14 them. I think I did.

15 And, you know, I asked them if we could  
16 work something out in regard to their hours and stuff  
17 and the shooting, and tell them how bothersome it was  
18 and that. I just handwrote a letter and I had several  
19 of the neighbors sign it. You know, they were in  
20 agreement with me that something needed to be done at  
21 that point.

22 [Complainant's Exhibit Number 4 was  
23 marked for identification.]

24 MR. VAN NESS: I'm going to show you

48

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1 what's been marked -- it's marked Claimant's Exhibit 4.

2 But, Mr. Hearing Officer, the label is on  
3 the last page for obvious reasons. The writing on the  
4 first page would be covered up in part if the label were  
5 placed there.

6 HEARING OFFICER LANGHOFF: Okay.

7 Q. (By Mr. Van Ness) Do you recognize that,  
8 sir?

9 A. Yes, I do. It's the letter I wrote  
10 November of '99. That was before they became  
11 incorporated and stuff. It was after they started  
12 shooting in August, and they'd been shooting for  
13 the -- well, at that time, the four months or  
14 three -- actually closer to three months. September,  
15 October, August.

16 Q. That is a letter that you referred to that  
17 you wrote?

18 A. Yes, it is.

19 Q. And that is the letter that you referred to  
20 that you and other individuals signed; is that correct?

21 A. Yes, several individuals that lived around  
22 signed it, yes.

23 MR. VAN NESS: Mr. Hearing Officer, I'd  
24 move for admission of Exhibit 4.

49

KEEFE REPORTING COMPANY

1 HEARING OFFICER LANGHOFF: Exhibit 4 is  
2 admitted.

3 [Complainant's Exhibit Number 4 was  
4 admitted into evidence.]

5 Q. (By Mr. Van Ness) Do you have the date of

6 that letter?

7 A. November 8th of 1999.

8 Q. Can you identify those other individuals  
9 that were referred to a moment ago that signed the  
10 letter together with you on the same page?

11 A. Before I proceed, I'd like to correct  
12 myself. They started shooting in August of '98. So  
13 this letter wrote in '99 would have been a year and two  
14 months into the shooting.

15 Q. Thank you.

16 A. Yes. Question again please?

17 Q. Just if you would identify, if you will,  
18 the individuals who also signed that sheet of paper.

19 A. Yes. Timothy Zini, Darrell Mann, Kathy  
20 Mann, Alvin Abbott, Buddy Gismey (sp), Dave Collins,  
21 Diane Collins, Jim Wicker, Rita Martin and Kathy Abbott.

22 Q. Who are those individuals?

23 A. Neighbors.

24 Q. They all live in an area depicted on the

50

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1 map?

2 A. I don't -- I am not familiar with the  
3 Mr. Jim Wicker. I believe Alvin might  
4 have -- Mr. Abbott might have had him sign that.

5 Q. All right. And we'll ask Mr. Abbott when  
6 we get to him. Can you tell me how the village and the  
7 gun club responded to your letter of complaint?

8 A. They didn't.

9 Q. There was no response at all?

10 A. No.

11 Q. You received no correspondence from them?

12 A. No.

13 Q. Did you receive a phone call from them?

14 A. No.

15 Q. Now, when you didn't receive any response  
16 from the city and the village, what did you do?

17 A. That's when I believe I got in touch with  
18 Mr. Zak, Greg Zak with the EPA. He's a pollution  
19 control specialist. And he recommended that I take up  
20 the matter, and he provided me with the information and  
21 phone numbers and stuff and some charts on sound, and  
22 suggested that I write a letter to the pollution control  
23 board and request a hearing. So I pursued that avenue.

24 Q. Did you pursue any other avenues?

51

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1 A. Yes. Actually, eventually we came to talk  
2 to you about the situation.

3 Q. I see. Did you know -- but I mean, in

4 regard to any other governmental official, did you refer  
5 to anyone else?

6 A. Yes, I did. I actually contacted the  
7 state's attorney at that time, Theresa Phillips. And  
8 she responded with a letter saying that she wouldn't  
9 pursue anything, and referred me to the attorney  
10 general's office in Springfield to a Mr. Tom Davis. I  
11 believe he's the chief of the environmental bureau with  
12 the attorney general's office.

13 And upon being referred to him, I called.  
14 And the state's attorney here, Theresa Phillips, had  
15 given me his phone number to call him. And she had  
16 stated, I believe, in her letter that she spoke with  
17 him. So I called and he agreed to assist. And Mr. Mann  
18 and myself went to Mr. Davis's office and met with him.

19 And there was a Ms. Debbie -- Deborah  
20 Barnes, who was also an assistant to the attorney  
21 general. And we discussed the zoning issues and the  
22 shooting, and presented all that to them.

23 And then their response was -- they wrote a  
24 letter, I believe, to the gun club and to the village.

1 I know for sure to the village. I don't know about to  
2 the gun club, but for sure to the village, stating that

3 it appeared that they were in violation of the zoning,  
4 and they should correct the matter so that to avoid the  
5 attorney general pursuing the legal courses of action  
6 against them.

7 Q. How do you know that Mr. Davis sent a  
8 letter to the gun club and the village?

9 A. I received copies of that from Mr. Davis.

10 Q. I see. Do you know whether the gun club or  
11 the village responded to the attorney general?

12 A. Yes, they did. Their attorney, Mr. Fines,  
13 and, obviously, I believe they did write the gun club  
14 also, because Mr. DePaepe at that time was the gun club  
15 attorney. And he wrote a response to the inquiry by  
16 Mr. Davis in regards to it.

17 Q. And, again, how do you know that?

18 A. Because I received copies of the letter.

19 Q. I see. You received those copies from  
20 Mr. Davis?

21 A. From Mr. Davis's office, yes.

22 [Complainant's Group Exhibit Number 5  
23 was marked for identification.]

24 Q. (By Mr. Van Ness) I'm going to show you

2 identification. May I ask if you recognize those  
3 documents?

4 A. Yes, I do. This was the explanation given  
5 to Mr. Davis by Mr. DePaepe, the attorney for the gun  
6 club.

7 MR. VAN NESS: I move to admit, Mr. Hearing  
8 Officer.

9 HEARING OFFICER LANGHOFF: So admitted.

10 [Complainant's Group Exhibit Number 5  
11 was admitted into evidence.]

12 Q. (By Mr. Van Ness) I'm going to ask you to  
13 look at the first document, which happens to be -- at  
14 the back, Group Exhibit 5. What's the date of that  
15 document? At the back of Group Exhibit 5.

16 A. April 6th of 2000.

17 Q. And who is the author of that letter?

18 A. The author of the letter?

19 Q. Yes.

20 A. It is Mr. Fines.

21 Q. And Mr. Fines is?

22 A. He is the Village of Kincaid's attorney.

23 Q. I see. Would you read the third sentence  
24 of that letter in the record please.



1           A.     Beginning with "per my conversation"; is  
2     that correct?

3           Q.     Yes.

4           A.     "Per my conversation with Mr. DePaepe on  
5     April 3, 2000, it is my understanding that he will be  
6     supplying me with information confirming the fact that  
7     the Southfork Gun Club has been a chartered organization  
8     in good standing far before January 1, 1994."

9           Q.     Thank you.

10          A.     You're welcome.

11          Q.     I'm going to ask you to look at the second  
12     document, which is actually the document on top, and ask  
13     you to describe that for me please.

14          A.     You're speaking of the letter of April 19,  
15     2000?

16          Q.     And to whom is that written?

17          A.     It's wrote to Mr. Davis from Mr. DePaepe.

18          Q.     And Mr. DePaepe was?

19          A.     He was the attorney for Southfork Gun Club  
20     at the time, I believe.

21          Q.     Now, I need to back up for a second.

22                     The first letter that you read a portion  
23     of, who was that addressed to? I asked you who the  
24     author was, but I didn't ask you who it was addressed

1 to.

2 A. It's addressed to Mr. Thomas Davis, the  
3 chief of the environmental bureau at the attorney  
4 general's office.

5 Q. So both letters were addressed to  
6 Mr. Davis, one from the attorney for the village and one  
7 from the attorney for the gun club?

8 A. Yes, they were.

9 Q. All right. I'm going to ask you to read  
10 the first two sentences of the second paragraph of the  
11 letter from Mr. DePaepe.

12 A. "First, you state that the relevant inquiry  
13 is whether the Southfork Gun Club was an operator of a  
14 firearm range on January 1, 1994. My response is that  
15 this fact is undisputed."

16 Q. Thank you. Would you agree that in each  
17 case, counsel for the gun club is asserting or appears  
18 to be asserting the gun club was in existence in 1994?

19 A. Yes. That's what they are saying there.

20 Q. Did you not also file a complaint against  
21 the gun club with the pollution control board around  
22 this time?

23 A. Yes, I did.

24 Q. Did the gun club respond to your pollution

1 control board complaint also?

2 A. Yes. It was rather strange how I found out  
3 about the response. Because myself and Mr. Mann and  
4 Mr. Abbott had delivered papers that I filled out from  
5 the pollution control board to the gun club one day when  
6 they were shooting, and we also mailed by certified mail  
7 a copy to the president of their gun club. However, he  
8 didn't pick it up. I got it back from the post office  
9 after several weeks and as being not delivered.

10 And when I called and spoke to the clerk of  
11 the board in regards to my papers and stuff, that's when  
12 I was informed that the gun club had already responded  
13 and had asked for it to be dismissed, I believe, for  
14 being duplicitous and frivolous, or something like  
15 that. And I responded to that myself.

16 Q. Did you have an opportunity to read the  
17 response that was provided to the board by the gun club?

18 A. I believe I did.

19 [Complainant's Group Exhibit Number 6A  
20 was marked for identification.]

21 Q. (By Mr. Van Ness) Well, I'm going to hand  
22 you what's been marked as Complainant's Group Exhibit 6A  
23 for identification, and ask you if you recognize that  
24 document.

1           A.     Yes.  Yeah, I recognize all of these  
2 documents.

3                   HEARING OFFICER LANGHOFF:  And I believe I  
4 do, too.  Is that already part of the record?

5                   MR. VAN NESS:  That is already part of the  
6 record, Mr. Hearing Officer, it being the respondent's  
7 motion to dismiss and an attachment thereto.

8                   HEARING OFFICER LANGHOFF:  Thank you.

9                   MR. VAN NESS:  Well, first of all, I'll  
10 move it into evidence, if necessary.

11                   HEARING OFFICER LANGHOFF:  It will be  
12 admitted.

13                                   [Complainant's Group Exhibit Number 6A  
14                                   was admitted into evidence.]

15           Q.     (By Mr. Van Ness)  I'm going to ask you to  
16 look at the second of the two cover letters.  Do you see  
17 that?

18           A.     Yes.

19           Q.     What's the date of that letter please?

20           A.     April 10th of 2000.

21           Q.     I see.  And that is on the letterhead  
22 stationary, is it not?

23           A.     Yes.

24           Q.     And could you describe the letterhead that

1 it's on?

2 A. It's the Law Office of DePaepe and Davison.

3 Q. I see. Mr. DePaepe you indicated  
4 previously was the attorney for the gun club?

5 A. Yes.

6 Q. Now, I'm going to ask you to read the  
7 second and third paragraphs of that letter into the  
8 record.

9 A. "There are two reasons for immunity."

10 Q. No, I'm sorry. The second and third.

11 A. I'm sorry?

12 Q. The second and third.

13 A. The second paragraph? I apologize.

14 "It is the position of Southfork Gun Club,  
15 Incorporated, which is in fact engaged in trapshooting  
16 activity in the southwest quarter of the southeast  
17 quarter of the northeast quarter of Section 13, Township  
18 13 N, Range 2, west of the third principal meridian in  
19 Christian County, Illinois; that the complaint should be  
20 dismissed and the pollution control board lacks  
21 jurisdiction as a result of the grant of immunity  
22 applicable to the club under the Illinois Premises  
23 Liability Act 740 IL CD 130/5.

24 There are two reasons for immunity. First,

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1 the club was issued articles of incorporation and was in  
2 existence as far back as 1968, as evidenced by the  
3 attached articles of corporation, issued by the Illinois  
4 Secretary of State. Attached is a statement from the  
5 Secretary of State, dated January 5, 1999, indicating  
6 that the club exists as a legally recognized entity.

7 According to the Premises Liability Act,  
8 Section 5B, immunity applies to the owner or operator of  
9 a firearm range in existence on January 1, 1994."

10 Q. Would you agree that in this letter from  
11 the counsel for the gun club is once again implicitly  
12 asserting that the gun club was in existence in 1994?

13 A. I agree that that's what he's saying, but I  
14 disagree with the facts.

15 Q. While you were still representing the  
16 complainants on this case, did you conduct an  
17 investigation of that assertion?

18 A. Yes, I did. I served the Freedom of  
19 Information Act and gathered all the information that I  
20 possibly could in regards to the club. I also  
21 communicated with the secretary of state's office,  
22 Mr. Maurice Ogden, and spoke with him in regards to  
23 their corporation.

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1 weren't on the record. And then he did some more  
2 research and come up with the fact that they were  
3 involuntarily dissolved, I believe, in 1981.

4 Q. Do you recall whether the state's  
5 attorney's office -- I'm sorry, the secretary of state's  
6 office had provided you any document to reflect that  
7 fact?

8 A. Actually, yes. First, the information -- I  
9 had spoke with Sheriff Kindermann in regards to the  
10 noise issue and stuff for several days. For a period  
11 there, we spoke on almost a daily basis. And he,  
12 himself, called the secretary of state's office and  
13 obtained a copy of the dissolving -- involuntary  
14 dissolving of the gun club, and ordered certified copies  
15 of that. He provided me a copy, and I also got a copy  
16 myself from the secretary of state's office

17 [Complainant's Exhibit Number 6B was  
18 marked for identification.]

19 Q. (By Mr. Van Ness) I'm going to hand you  
20 what's been marked Complainant's Exhibit 6B for  
21 identification.

22 And, Mr. Hearing Officer, by way of

23 inclination, I decided to break this larger bunch into  
24 two parts so that we have a 6A and a 6B.

61

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1 So I ask you to look at the Complainant's  
2 Exhibit 6B and ask you if you recognize this as one of  
3 the documents, as the document -- one of the documents  
4 you received? I'll get it straight.

5 A. Yes.

6 Q. From the secretary of state's office?

7 A. Yes.

8 Q. Can you describe that for the record  
9 please?

10 A. Yes.

11 It states, "Whereas it appears that  
12 Southfork Gun Club, being a corporation under the laws  
13 of the State of Illinois, relating to domestic  
14 corporations, has failed to file an annual report as  
15 required by the provisions of Not For Profit Corporation  
16 Act of the State of Illinois in force January 1, A.D.  
17 1944; and all acts mandatory thereof in whereas said Act  
18 provides that upon failure to file an annual report, the  
19 secretary of state shall dissolve the corporation  
20 pursuant to Section 50A effective July 1, 1974.

21 Now, therefore, I, Jim Edgar, Secretary of



22 State of the State of Illinois, hereby dissolve the  
23 aforesaid Southfork Gun Club in pursuance of the  
24 provisions of the Act."

62

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1 Q. What's the date at the bottom of that?

2 A. First day of July 1981.

3 Q. Thank you. I want you to briefly look at  
4 the back side of that document. Do you see a stamp  
5 there in writing?

6 A. There's a certification and there's also an  
7 expedited secretary of state, June 2, 2000, and then it  
8 states expressed and copy of certification fee.

9 Q. Thank you. With respect to the other  
10 documents that you may have received from the secretary  
11 of state's office, did you observe or obtain or receive  
12 any documentation at all that suggested that the  
13 Southfork Gun Club corporation existed after July 1,  
14 1981 and prior to January 5, 1999?

15 A. No, they didn't exist.

16 Q. Okay. There was nothing in there that  
17 indicated that the corporation had been reinstated prior  
18 to January?

19 A. Not during that period of time.

20 Q. Thank you. Now, in the course of

21 representing the plaintiffs, did you inquire as to  
22 whether the gun club had obtained zoning permission to  
23 operate the trapshoot facility in the County of  
24 Christian?

63

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1 A. Yes, sir. I served the Freedom of  
2 Information Act on the county zoning officer, Mr. Rahar,  
3 or Ra-har (phonetic). I'm not sure how to pronounce it,  
4 but I did receive copies from his files.

5 [Complainant's Exhibit Number 7 was  
6 marked for identification.]

7 Q. (By Mr. Van Ness) I see. I'm going to ask  
8 you to look at what's been marked as Complainant's  
9 Exhibit 7A. And I'm going to ask you if that is not in  
10 fact the documents that you received from the county.

11 A. Yes, it is one of the documents that I  
12 received.

13 Q. Would you read the third paragraph of the  
14 application.

15 A. That being, begins with "that the zoning  
16 law enforces"?

17 Q. Beginning with, let's say, beginning with  
18 that Petitioner would like to --

19 A. "Petitioner states that the aforesaid real

20 estate"?

21 Q. "Now that Petitioner would like to" --

22 A. Oh, could you please point that out to me  
23 here, sir? It's in the middle of the page, sir?

24 "That the petitioner would like to use

64

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1 said land for trapshoot purposes."

2 Q. Thank you. That's fine.

3 A. Okay.

4 Q. Now, I'm going to ask you to skip down to  
5 the bottom of the page. Do you see where "Petitioner  
6 prays for relief"? After the "wherefore"?

7 A. Yes. That the board supervisor will grant  
8 petitioner's permit from AG1 district to special use and  
9 parenthesis (33.055.) It's hardly legible. Private  
10 pistol or rifle ranges.

11 Q. Okay. Are you familiar with the  
12 Special Use Zoning Ordinance for Christian County that  
13 was in existence in 1968?

14 A. Yes, I am.

15 Q. And how did that come to be?

16 A. Well, I obtained a copy from Mr. Rahar's  
17 office of the zoning that was in effect at that time.  
18 And I looked into the section in regards to special use

19 permits. And I looked up the ordinance applications  
20 that they had used here. And the 33.055 actually in  
21 their ordinance, the Christian County ordinance book,  
22 referred to artificial lakes. And then there was  
23 another numerical heading for private pistol or rifle  
24 ranges, which was not on this document, even though they

65

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1 wrote it in.

2 And then also in the zoning, was an  
3 application, of which no numerical application was put  
4 down here, but refers to skeet and trapshoot if not  
5 closer than 1,320 feet from a residence or farm group.

6 MR. VAN NESS: I'm going to move for  
7 admission of Complainant's Exhibit 7A being the 1968  
8 application of the gun club for the special use  
9 variance.

10 HEARING OFFICER LANGHOFF: Exhibit 7A is  
11 admitted.

12 [Complainant's Exhibit 7A was admitted  
13 into evidence.]

14 Q. (By Mr. Van Ness) I'm going to hand you  
15 what's been marked Complainant's Exhibit 7B for  
16 identification, and ask you if that is not in fact the  
17 zoning ordinance for Christian County to which you've

18 just referred.

19 A. Yes. This was one that was in effect at  
20 this time in '68.

21 Q. And how do you know that, sir?

22 A. According to Mr. Rahar, and then I believe  
23 the document is dated.

24 Q. I see. I'm going to ask you to turn to

66

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1 section 33 of the ordinance, section 33 of the  
2 ordinance, sir. And I am going to ask you to read the  
3 heading of that section. I believe you'll find it on  
4 page 20.

5 A. Yes. Section 33 states special uses in the  
6 AG1 agricultural district, and parenthesis, (a public  
7 hearing required).

8 Q. And following that section 33, are there  
9 not a number of subsections, 33.01, etcetera, etcetera?

10 A. Yes, there are.

11 Q. And does not each one of those subsections  
12 refer to a different kind of activity?

13 A. Yes, they do.

14 Q. Following up on what you stated earlier,  
15 would you read into the record please what section  
16 33.055 refers to being -- I'm sorry. Just go ahead.

17           A.     Lakes, in parenthesis, artificial over  
18     three acres.

19           Q.     I asked you whether in fact Southfork Gun  
20     Club has installed a artificial lake over three acres on  
21     the gun club property?

22           A.     Not to my knowledge.

23           Q.     I'm going to ask you to find a section in  
24     the ordinance that relates to private pistol or rifle

67

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1     ranges.  What is the number of that section?

2           A.     The proper number on that would be 33.061.

3           Q.     And what page do you find that on, sir?

4           A.     I find that on page 23.

5           Q.     And what does 33.061 say?

6           A.     Private pistol or rifle ranges.

7           Q.     And, now, I'm going to ask you whether, to  
8     the best of your knowledge, has Southfork Gun Club  
9     installed a private pistol and rifle range on the site?

10          A.     Not to my knowledge.

11          Q.     Have you ever seen anyone discharging a  
12     rifle instead of a shotgun there as part of the  
13     activities out there?

14          A.     Personally, no, I have not personally.

15          Q.     Thank you.  Now, I'm going to ask you to

16 find the section of the ordinance that actually relates  
17 to skeet or trapshooting?

18 A. That would be section 33.071.

19 Q. Is that also on page 23?

20 A. Yes. It is on the same page.

21 Q. And would you read that in the record  
22 please.

23 A. "Skeet or troopshooting if not closer than  
24 1,320 feet to any residence or farm group."

68

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1 Q. Is it your testimony that the Southfork Gun  
2 Club is in fact within 1,320 feet of a residence or farm  
3 group?

4 A. It's closer than 1,320 feet. That would be  
5 correct, yes.

6 Q. Does either of the sections you previously  
7 read, the 337.061 and 33.055, do either of them mandate  
8 a 1,320 feet setback?

9 A. No, they do not.

10 Q. Does any document provided to you by the  
11 county zoning office relative to the gun club rezoning  
12 application in 1968 reflect any attempt to demonstrate a  
13 1,320 foot setback?

14 A. No. I would say that they adamantly

15           avoided it from the descriptions that they give.

16           Q.     Does any document provided to you by the  
17           county zoning office in response to your Freedom of  
18           Information Act reflect the specific finding by the  
19           county that 1,320 feet setback existed?

20           A.     Not that I recall.

21           Q.     Now, I'm going to ask you to look at a  
22           legal description at the top of what's been marked  
23           Complainant's Exhibit 7A.

24           A.     Yes, sir.

69

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1           Q.     I believe you previously read that into the  
2           record.

3           A.     The southwest one quarter, southeast one  
4           quarter, northeast one quarter, of section 13, T13 N,  
5           R2 W, Christian County, Illinois.

6           Q.     Now, sir, do you know what R2 W refers to?

7           A.     Yes. That would be the range in the  
8           description.

9           Q.     And approximately how wide is a range, a  
10          statutory range?

11          A.     Around six miles.

12          Q.     I see. Do you have any information to  
13          suggest that this legal description as set forth in the



14 application is incorrect or correct?

15 A. Yes. I live in R3, which that's where the  
16 gun club is also located in range 3. So the legal  
17 description is actually approximately six miles off.

18 Q. Okay. When did you discover that  
19 particular error?

20 A. You, yourself, had sent me information to  
21 go over. And in reading over it, I  
22 discovered -- actually, it was on documentation. It was  
23 to be presented in court, and I looked over it. And  
24 being familiar with this document, the R2 W had been

70

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1 actually scribbled out, and an R3 wrote in. And I  
2 brought that to your attention. And then it was my  
3 understanding that you investigated it, and said, yes, I  
4 was correct, and had brought that up.

5 My understanding is that was brought up in  
6 a conference call in regard to a hearing with  
7 Judge Spears, because we had -- or you had, as our legal  
8 representative, protested, and actually was going to ask  
9 for sanctions, I believe, in regards to it. And  
10 Judge Spears said that it would not be admitted in this  
11 conference that you had. That was my understanding.

12 Q. So what did the plaintiffs do after they

13 realized there was a significant error in the legal  
14 description? Did you file suit in the court?

15 A. Yes, we did.

16 Q. I heard you refer to Judge Spears. I  
17 assume you --

18 A. Yes. We appeared before Judge Spears back  
19 in January. I believe it was around January 9th of 2002  
20 of this year. He issued a temporary injunction, and  
21 that was followed up by a hearing for summary judgment,  
22 which resulted in a permanent injunction because of them  
23 being off on their legal description and not in line  
24 with the laws of the state.

71

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1 Q. Did you have occasion to be present when  
2 the court orally entered the permanent injunction?

3 A. Yes, I was.

4 Q. And have you had an opportunity since then  
5 to look at and read the Court's permanent injunction  
6 order?

7 A. Yes.

8 [Complainant's Exhibit Number 8 was  
9 marked for identification.]

10 Q. (By Mr. Van Ness) And I'm going to hand  
11 you what's been labeled Complainant's Exhibit 8, and ask

12 you if you recognize that document as the permanent  
13 injunction order entered by Judge Spears.

14 A. Yes, I do.

15 Q. What's the date of that order? Would you  
16 look on page 5 please.

17 A. 5? September the 6th of 2002.

18 Q. So about three weeks ago?

19 A. That would be correct.

20 MR. VAN NESS: Mr. Hearing Officer, I move  
21 for admission of that, of Exhibit 8.

22 HEARING OFFICER LANGHOFF: Exhibit 8?

23 Exhibit 8 is admitted.

24 [Complainant's Exhibit Number 8 was

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72

1 admitted into evidence.]

2 Q. (By Mr. Van Ness) I'm going to ask you,  
3 Mr. Logsdon, to read paragraph 17 and 18 of that order  
4 for the record.

5 A. Paragraph 17 reads as follows:

6 "That the said action of Defendant  
7 Christian County's Board of Supervisors in granting the  
8 said petition for special use to the Southfork Gun Club,  
9 Incorporated, was therefore void ab initio."

10 And paragraph 18 reads: "That the

11 Defendant Southfork Gun Club and Defendant Village of  
12 Kincaid therefore had and have no authority to conduct  
13 or allow skeet or trapshooting on the gun club's  
14 property."

15 Q. Thank you.

16 A. You're welcome.

17 Q. Since the Court entered its permanent  
18 injunction three weeks ago, what has been the gun club's  
19 response?

20 A. In court, I believe they have filed for a  
21 reconsideration. At the facility last Friday night, we  
22 were entertained with a rock concert.

23 Q. When you say you were entertained by a rock  
24 concert, what are you describing? What do you mean?

73

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1 A. The village -- well, Friday night around a  
2 quarter to 9:00 this past Friday, I started hearing very  
3 loud music playing at the gun club.

4 Q. What kind of music?

5 A. Rock.

6 Q. Okay.

7 A. Rock 'n roll.

8 Q. Would you characterize it as louder in your  
9 opinion?

10           A.     Well, I was sitting in my house, and I  
11     couldn't believe how much louder it was than the  
12     shooting itself. That kind of surprised me that the  
13     music was actually louder in my living room than the  
14     shooting.

15                     And I went outside. It started out with  
16     drum beating is how it started. And then next there was  
17     a whole band playing after they beat the drum for a  
18     while. And there was talking over a loud speaker. And  
19     like I said, it started around quarter till 9:00.

20                     I called the Christian County Sheriff's  
21     Department who referred me to the Kincaid police  
22     officer. And actually they called him and he called  
23     me. And told me that the Village of Kincaid had issued  
24     a permit from 9:00 to 12:00 for the Southfork Gun Club

74

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1     to have a picnic or party, whatever, over there. I  
2     don't believe he elaborated on the specific use, but  
3     said that it would be over at midnight.

4                     At 12:25, the band was still playing that  
5     night, 25 minutes past the permit issued.

6           Q.     And after the band quit playing, did the  
7     sound stop?

8           A.     No. They had stereo music that lasted

9 until about 1:25 in the morning.

10 Q. And that was just this last Friday; is that  
11 correct?

12 A. That's correct. I have a tape of that.

13 Q. That's not necessary.

14 What other responses has the gun club made?  
15 You mentioned the motion for reconsideration now pending  
16 in court. You mentioned the rock concert last Friday.  
17 Anything else?

18 A. Not off the top of my head that I can think  
19 of.

20 Q. You're not aware of any attempts to rezone  
21 the location?

22 A. Oh, well, yes, absolutely, in regards to  
23 the attempt of rezoning, yes.

24 I actually attended a -- it wasn't a full

75

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1 board meeting, but a partial -- it was the zoning  
2 committee meeting, and they had an attorney representing  
3 them there, a Mr. Day. And he presented a proposal to  
4 the county zoning commission that he wanted passed on to  
5 the full board.

6 And I spoke there, and some of my neighbors  
7 spoke there at the meeting also. And they decided to

8 write to the attorney general for an opinion as to  
9 whether or not it would be legal to rezone or to spot  
10 zone that specific site.

11 Q. Do you recall anyone referring to it as  
12 spot zoning or special legislation?

13 A. I believe Mr. Day did, and he made  
14 reference to some zoning issues in Springfield and  
15 referred to that as an example.

16 Q. Okay. So as we sit here today, the gun  
17 club continues to emit noise and continues its efforts  
18 to be allowed to emit noise? Is that a fair statement?

19 A. Yes, it is.

20 Q. Now, when the officer told you that the  
21 rock concert was authorized by the village -- first of  
22 all, do you recall who that officer was?

23 A. No, I do not.

24 Q. And he was an officer of the Kincaid Police

76

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1 Department?

2 A. That's correct.

3 Q. Would you happen to know who on behalf of  
4 the gun club might have applied for that permit?

5 A. No, I don't have that information.

6 Q. Mr. Logsdon, what do you want the board to

7 do at the conclusion of this proceeding?

8 A. Give me back my life, stop the noise, stop  
9 the battle, stop all the emotional trauma, stop the  
10 trespassing nuisance on my property. Stop what the  
11 county refuses to stop, even regardless of an  
12 injunction. I want enforcement of the laws of the State  
13 of Illinois.

14 Q. Do you think a monetary penalty would be  
15 appropriate?

16 A. I think it would be more than appropriate.

17 I'd like for the board members to sit and  
18 listen for 12, 16 hours a day to constant shooting.  
19 It's enough to drive you crazy for a couple three years  
20 when you just retired and you're trying to enjoy your  
21 life.

22 And you can't go fishing in your lake. You  
23 can't enjoy anything outside.

24 I don't think you can fine them enough, not

77

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1 by my standard, for allowing them to get away with it,  
2 and knowing from the injunctions, they've been illegal.

3 Q. To the best of your knowledge, has the  
4 Southfork Gun Club or the Village of Kincaid ever  
5 erected a device or structure of any kind to limit the



6 noise emitting from the property?

7 A. No. They have never spent a dime on  
8 anything like that. That's why I said they should be  
9 fined severely.

10 I mean, how much can anybody take to ruin  
11 your family life, to ruin the enjoyment? Would you take  
12 a thousand dollars a day or would you take \$5,000 a day  
13 to allow people to trespass on your property? To have  
14 noise that drives you nuts all the time? How much could  
15 it possibly be worth? And then to put up with it seven  
16 days a week over and over and over again for over a  
17 year, or almost a year and a half, before we get some  
18 kind of relief in restricting their hours, and even then  
19 they violated the restrictions on their hours.

20 I don't think they could be fined enough.  
21 I don't know how much you could sell your life for a day  
22 for putting up with the misery that we've all had to put  
23 up with. And then have to battle like this and the  
24 expense of it all.

78

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1 MR. VAN NESS: No further questions.

2 I want to make sure that all of the  
3 exhibits --

4 HEARING OFFICER LANGHOFF: 1 through 8.

5 They're not, and I want to address that in just a  
6 minute.

7 I have one question for Mr. Logsdon.

8 EXAMINATION

9 QUESTIONS BY HEARING OFFICER LANGHOFF:

10 Q. When was the last time that shotguns  
11 were -- did you hear the shotguns fired?

12 A. I believe it was the night before the  
13 permanent injunction -- or the temporary injunction.  
14 Excuse me. Back in January.

15 HEARING OFFICER LANGHOFF: Thank you.

16 THE WITNESS: You're welcome.

17 HEARING OFFICER LANGHOFF: You can have a  
18 seat.

19 AUDIENCE MEMBER: Could I ask a question as  
20 a citizen?

21 HEARING OFFICER LANGHOFF: No, sir. You're  
22 allowed to give testimony at the end of the hearing  
23 later today.

24 MR. LOGSDON: Should I leave these items?

79

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1 HEARING OFFICER LANGHOFF: Yes, please.

2 You have to have an attorney representing  
3 the gun club in order to ask them questions.

4 AUDIENCE MEMBER: I can't ask questions as  
5 a citizen?

6 HEARING OFFICER LANGHOFF: That's right.  
7 You're allowed to give written and verbal testimony  
8 today.

9 MR. VAN NESS: Mr. Hearing Officer, it's a  
10 quarter till. Do you want to take a break now? Or do  
11 you want to --

12 HEARING OFFICER LANGHOFF: I think that's  
13 up to my court reporter.

14 THE REPORTER: I don't need a break.

15 HEARING OFFICER LANGHOFF: I want to keep  
16 going.

17 MR. VAN NESS: Do you want to keep going?

18 HEARING OFFICER LANGHOFF: There are a  
19 couple of things with the exhibits we need to take care  
20 of. Do you have an audio tape over there? And I want  
21 to put a label on it.

22 HEARING OFFICER LANGHOFF: For the record,  
23 I haven't admitted 6A. I think I just said 6. 6B  
24 hasn't been offered.

80

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1 MR. VAN NESS: We offer it now.

2 HEARING OFFICER LANGHOFF: It will be

3 admitted. And the same thing goes for 7B.

4 MR. VAN NESS: We would offer that.

5 HEARING OFFICER LANGHOFF: And 7B is  
6 admitted.

7 [Complainant's Exhibit Numbers 6A, 6B,  
8 7A and 7B were admitted into  
9 evidence.]

10 HEARING OFFICER LANGHOFF: For the record,  
11 Exhibits 1 through 8 includes 6A, B, and 7A, B are  
12 admitted and part of the record. Let's go off the  
13 record for just a second.

14 [Off-the-record discussion.]

15 HEARING OFFICER LANGHOFF: Call your next  
16 witness please.

17 MR. VAN NESS: Thank you, Mr. Hearing  
18 Officer.

19 The complainant will call Mr. Alvin Abbott.

20 HEARING OFFICER LANGHOFF: Mr. Abbott, you  
21 can have a seat right up here please.

22 [Witness sworn.]

23 HEARING OFFICER LANGHOFF: Thank you.  
24

81

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1

ALVIN W. ABBOTT

2 of lawful age, being produced, sworn and examined on  
3 the part of the Complainants, testifies and says:

4 EXAMINATION

5 QUESTIONS BY MR. VAN NESS:

6 Q. Mr. Abbott, will you state your full name  
7 please for the record.

8 A. Alvin W. Abbott.

9 Q. Where do you reside?

10 A. 1569 North 900 East Road, Taylorville.

11 Q. How long have you lived there, sir?

12 A. 20 years.

13 Q. Since when?

14 A. 1982. September 30th of 1982, I purchased  
15 that property.

16 Q. Thank you. What was the nature of the area  
17 when you moved there?

18 A. It was very peaceful and quiet. Nice  
19 little lake behind the house there. We used to go  
20 fishing all the time.

21 Q. Was your home an existing home or did you  
22 have it built?

23 A. It was an existing home.

24 Q. An existing home? Do you know how old it

1 was when you moved in?

2 A. I think it was 1976.

3 Q. So it was five years old or so when you  
4 moved in?

5 A. Yes.

6 Q. And I'm going to ask you to look at what's  
7 been marked as People's Exhibit 1. Please look the map  
8 over and tell me whether you agree that it is a fair  
9 representation of the area.

10 A. Yes, it is.

11 Q. You heard Mr. Logsdon's testimony earlier,  
12 did you not?

13 A. Yes, I did.

14 Q. Would you agree that the markings indicated  
15 thereon by Mr. Logsdon are generally accurate?

16 A. Yes, they are.

17 Q. Do you need to make any changes?

18 A. No, I don't. Pretty much everything is  
19 covered on it.

20 Q. Regarding the area that's been marked with  
21 the pink marker, do you recognize that as the gun club  
22 area?

23 A. Yes, it is.

24 Q. Regarding that area, when you moved in, in

1 1982, do you recall whether there were any above-ground  
2 structures visible at that location?

3 A. The only thing that was on that property  
4 was a lot of weeds, a lot of grass, and what they call  
5 trapshoots that were deteriorated away and filled full  
6 of dirt.

7 Q. Do you recall whether they were in regular  
8 use at that time?

9 A. They were not in use at that time.

10 Q. Has the gun club area changed since you  
11 moved in?

12 A. Yes. They built all the new buildings in  
13 1999. They built new buildings. I think they built  
14 three, but I know for a fact that they built two. And  
15 they took a bulldozer and they come in with a Cat and  
16 cleaned all this property down, smoothed it all down.  
17 There was a bunch of trees on that property at that  
18 time, because over a 20-year period, a lot of trees have  
19 grown up on that property, trees and weeds and grass.

20 Q. And it's your testimony that all this  
21 bulldozing and so forth took place in approximately  
22 1999?

23 A. Early '99, yeah.

24 Q. Thank you. When is the first time, to the

1 best of your recollection, that you observed gun club  
2 activity on that site?

3 A. Well, I did hear approximately three times  
4 over 20 years a little gun noise over there somewhere on  
5 that side of the lake. Whether it was on this property  
6 or not, I'm not sure. I don't know.

7 Q. You just heard the gunfire?

8 A. Yeah, I heard gunfire noise.

9 Q. Now, since then, have you personally  
10 witnessed, actually seen shooting activity at the  
11 property across the lake?

12 A. Yes, in 1999. Right off of Dave Martin's  
13 yard -- I mean Dave Collins. I'm sorry.

14 Q. Would you agree with the markings made by  
15 Mr. Logsdon as to the general area where the shooting  
16 took place? That's the area indicated by the pink  
17 highlighter.

18 A. Yes.

19 Q. Would you agree with his representation as  
20 to the general direction of gunfire?

21 A. Yes.

22 Q. Using the dimensions on the map that  
23 Mr. Logsdon had done earlier for his property, can you  
24 estimate the distance from the gun club shooting area to



1 your property?

2 A. I'm going to say approximately 850, 900  
3 feet, max.

4 Q. Certainly not 1,320 feet?

5 A. No way.

6 Q. Do you recall Mr. Logsdon's testimony about  
7 the frequency in duration of shooting?

8 A. Yes.

9 Q. Do you have anything to add to that?

10 A. Well, it went on for a lot of hours.  
11 Sometimes it went on for 12, 14 hours a day, and they  
12 did it to 11:00, 12:00 at night.

13 Q. So you agree with his characterization?

14 A. Yes.

15 Q. Are there any observations that you would  
16 add to Mr. Logsdon's statements regarding the frequency  
17 and duration of shooting?

18 A. Not other than the fact it was just almost  
19 unbearable. I mean, I work a swing-shift job seven days  
20 a week.

21 Q. Let me ask you whether you ever had  
22 occasion to videotape the shooting activity at the gun  
23 club.

24 A. Yes, I did. Me and my wife videotaped it.

1 [Complainant's Exhibit Number 10 was  
2 marked for identification.]

3 Q. (By Mr. Van Ness) I see. I'm going to  
4 show you what's been marked Complainant's Exhibit 10,  
5 and ask you whether you recognize it? If you can.

6 A. Yes, I recognize it.

7 Q. I'm going to ask you whether you recognize  
8 that as a tape recording of the activity at the gun  
9 club.

10 A. I do.

11 Q. Now, is this a cartridge that was placed in  
12 your video camera? Or did you import the material over  
13 from your video camera to your tape?

14 A. It was transferred from the video camera  
15 over to the tape.

16 Q. I see, okay.

17 I'm going to -- Mr. Hearing Officer, I'm  
18 going to ask for its admission into the record.

19 And I'm also going to ask Mr. Logsdon, I  
20 guess, to put it in the tape recorder.

21 HEARING OFFICER LANGHOFF: Okay.

22 MR. VAN NESS: Tape player. We will  
23 talk --

24 HEARING OFFICER LANGHOFF: Is it a

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1 120-minute tape?

2 MR. VAN NESS: It is. We will not play it  
3 for 120 minutes. I will tell you how long we will play  
4 it for. I have arbitrarily selected five time frames  
5 totalling approximately five minutes.

6 HEARING OFFICER LANGHOFF: Okay. Is that  
7 the only video tape you have today?

8 MR. VAN NESS: Yes.

9 HEARING OFFICER LANGHOFF: Okay. Exhibit  
10 10 will be admitted.

11 MR. VAN NESS: Thank you.

12 [Complainant's Exhibit Number 10 was  
13 admitted into evidence.]

14 HEARING OFFICER LANGHOFF: Mr. Van Ness, if  
15 you're talking as you do the tape, make sure the court  
16 reporter can hear you, so she can hear.

17 MR. VAN NESS: Why don't I stand over here  
18 and it will also make this work better. We've got it in  
19 there, and it's supposed to start playing.

20 Okay. For the record, I'm going to run it  
21 from the beginning of the tape being, 00.00 on counter  
22 to one minute subsequent to that, being 00.1.00.

23 [Viewing of video tape.]

24 MR. VAN NESS: Now, Mr. Hearing Officer,

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1 I'm going to forward it to 2.301 counter. Okay. I'll  
2 stop it there.

3 HEARING OFFICER LANGHOFF: And that was 3?

4 MR. VAN NESS: That will be at 3.30 at the  
5 counter.

6 I'm now going to fast-forward to another  
7 spot that I picked at random, being 11.30 on the  
8 counter. Actually, 11.320.

9 [Viewing of video tape.]

10 MR. VAN NESS: I'll stop it there at 12.10,  
11 and skip next to the last time to the mark 15.0, as  
12 close as I can get to it.

13 [Viewing of video tape.]

14 MR. VAN NESS: And I stopped at 16 on the  
15 counter, 16.00.

16 And we'll move now some considerable  
17 distance to 37.01 on the counter.

18 [Viewing of video tape.]

19 Q. (By Mr. Van Ness) I would like to hold at  
20 this point to ask the witness to verify the date shown  
21 on the lower right-hand corner of the screen. Would you  
22 read the date on the lower right-hand corner of the  
23 screen? It's kind of hard to read.

24

A. I can't read it from here, yes.

89

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1 Q. I believe it is June 9, 2000. Does that  
2 sound about right?

3 A. Yes. That sounds about right.

4 [Viewing of video tape.]

5 Q. (By Mr. Van Ness) Can you, Mr. Abbott, can  
6 you describe the first set of scenes we were watching?

7 A. Yes.

8 Q. Can you tell us the condition under which  
9 that recording was made?

10 A. Yes. We were about 28 to 30 foot from the  
11 side of this house, in his yard, to the south side of  
12 his house to the lake.

13 Q. Let me give you a purple pen, Mr. Abbott,  
14 and ask you to mark where you were standing when that  
15 tape was made.

16 A. [Witness indicated.]

17 Q. Thank you. Now, as you were standing there  
18 taking the shots, I couldn't help but notice that it was  
19 dark outside. Do you have an idea what time of day it  
20 was?

21 A. Somewhere around 7:30, 8:30 at night.

22 Q. The nighttime shots were?

23                   A.     Oh, it was shortly after that.  Whatever  
24     the tape said there is what time it was.

90

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1                   Q.     Do you know whether -- well, never mind.  
2                             Would you describe now the shots that were  
3     taken in the evening -- I mean -- I'm sorry.  During  
4     daylight hours?  Were you standing in roughly the same  
5     place there?

6                   A.     Yes, very close to the same place.

7                   Q.     Pretty much the same place when you were  
8     taking that shot?  Okay.

9                   A.     It might have been a little further back to  
10    the east.

11                  Q.     Further away from the gun club?

12                  A.     Yeah, a little bit further -- closer to the  
13    east, before it gets to Mike's property.

14                  Q.     Okay, all right.  Who was with you when you  
15    were taking the shots?

16                  A.     My wife.

17                  Q.     Thank you.  And you're referring to?

18                  A.     Kathy Abbott.

19                  Q.     Thank you.  Would you agree that the tape  
20    excerpts are representative of the events you witnessed  
21    that day?

22 A. Yes.

23 Q. To the best of your knowledge, did you or  
24 anyone else doctor the sound in any way --

91

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1 A. No.

2 Q. -- to bring up the sound?

3 A. No.

4 Q. Now, I notice you were using a sound meter  
5 there?

6 A. Yes, I was.

7 Q. Is that the same sound meter that  
8 Mr. Logsdon used earlier and testified to earlier?

9 A. If that's the one that he gave me, then  
10 that is it, correct.

11 Q. I'm going to ask you to describe the  
12 effects of the shooting activity on your quality of  
13 life. Has the noise coming from the gun club affected  
14 your sleep?

15 A. Yes, it has.

16 Q. What kind of employment do you have, sir?

17 A. I work at a chemical plant, Formosa  
18 Chemical Plastics. I've been there for 21 years.

19 And there's been many nights I'm working  
20 12-hour swing-shift nights. I get an hour of sleep.

21 And I went to work and worked 12 hours, and got off  
22 afternoon the next day. And you sleep for an hour or  
23 two, and the noise would start, and I'd be awake from  
24 when I got to work until the time I got home from work

92

KEEFE REPORTING COMPANY

1 the next day.

2 Q. Does the lack of sleep affect your work?

3 A. Sure it does.

4 Q. Do you believe that the lack of sleep  
5 imposes a safety hazard for you or your fellow  
6 employees?

7 A. Sure. When you're around heavy equipment  
8 and you have no sleep, I'm more apt to get hurt than  
9 what you are if you have a lot of rest and go to work.

10 Q. How about the use of your home, has the  
11 noise from the gun club affected the use of your home?

12 A. It was so bad, that we tried to stay away  
13 from our house. We closed the swimming pool down for  
14 two summers because the noise was so loud.

15 Q. Has the noise coming from the gun club  
16 affected your physical health?

17 A. Yes, it has.

18 Q. In what way?

19 A. I got -- my hearing has been -- I'm real



20 hard hearing the last two years. I've had physicals at  
21 work. And I wear earplugs at work everyday that I'm  
22 there. And this noise is unbearable.

23 Q. Has the noise affected your emotional and  
24 mental health in your opinion?

93

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1 A. Sure it has.

2 Q. In what way?

3 A. Well, you get a -- you get grouchy fast.  
4 You don't want to be around nobody. You just want to  
5 just kind of get away, you know, get away from the  
6 people.

7 Q. Have you received any kind of medical care?

8 A. I go to a doctor on a couple occasions, and  
9 they did give me some medicine to take to calm my nerves  
10 and try to get some rest. And I did do that.

11 Q. Has the noise coming from the gun club  
12 affected your family members' well-being?

13 A. Sure it has. I got a boy who used to go  
14 fishing all the time for one thing, but of course he's  
15 not allowed on the lake because of the noise and pellets  
16 going every direction.

17 Also, when he was at home in the house  
18 trying to his homework on the computer and typing tests

19 he had to do, he couldn't sit in his room and  
20 concentrate and do good work. That's how bad the noise  
21 was inside the house.

22 Q. Now, how old is your son?

23 A. He's 16 now.

24 Q. Did you hear the rock music coming from the

94

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1 gun club area last Friday?

2 A. Yes, I did. I got home at approximately  
3 5 after 12:00. I was working second shift. As soon as  
4 I got home, my wife called me, and she was calling me  
5 from work, because she had gone to work at 11:30. So I  
6 called Christian County police officers. They called it  
7 in. And they called one of their deputies and sent him  
8 out there, which was Roy Wilbur, but he didn't get out  
9 there. It was a lot later until he got there.

10 Q. Who?

11 A. Roy Wilbur. He's a Christian County police  
12 officer that responded to this call. This Jim Baker,  
13 who is a police officer in Kincaid, he also responded to  
14 this earlier and went over to the gun club. And he had  
15 called my wife at home and talked to her a minute. And  
16 they had a legal permit to shoot until 12 o'clock at  
17 night.

18 Q. I see. And now, you say you got home about  
19 5 minutes till 12:00?

20 A. 5 after 12:00.

21 Q. 5 after 12:00? Was the noise still coming  
22 from the site at that time?

23 A. Yes, it was.

24 Q. And how long after that did it continue?

95

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1 A. It was pretty loud until 25 after, or 20 or  
2 25 after 12:00. It was really loud. They had a band  
3 going on, a lot of loud music. And then one of the  
4 officers arrived over there, and the band quit. And  
5 then they started turning their own tunes on, their own  
6 stereo on, and it lasted until about 1:25. And one of  
7 the officers was sitting in my driveway listening to  
8 that noise. That also was Roy Wilbur.

9 Q. That was Officer Wilson?

10 A. Roy Wilbur.

11 Q. Roy Wilbur? And he is a sheriff's officer?

12 A. Yeah. He's a Christian County --

13 Q. Christian County?

14 A. -- police officer.

15 Q. Sheriff?

16 A. Sheriff.

17 Q. Okay. What effect did that noise have on  
18 you personally?

19 A. Well, you know, when you can't even get in  
20 your own house and lay down and go to sleep and rest, I  
21 mean, it's pathetic. And a person don't realize how bad  
22 it is until you listen to it. And day in and day out,  
23 night after night, year after year, month after month.

24 Q. I'm going to ask you what I asked

96

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1 Mr. Logsdon earlier. What do you want the pollution  
2 control board to do about this situation?

3 A. You know, what I asked them to do is  
4 protect the innocent people that are victims in this  
5 mess. You know, there's no amount of money you could  
6 ever give to a person for something like this. Them  
7 people know they're wrong and they just flat didn't care  
8 about nobody else. And they still don't, and they  
9 proved that fact just last Friday night doing what they  
10 did.

11 MR. VAN NESS: I have no further  
12 questions.

13 I think we have the tape already admitted.

14 HEARING OFFICER LANGHOFF: Yes, that's  
15 correct.

16 MR. VAN NESS: No further questions.

17 HEARING OFFICER LANGHOFF: Thank you,

18 Mr. Abbott.

19 THE WITNESS: Thank you.

20 HEARING OFFICER LANGHOFF: Next witness?

21 MR. VAN NESS: Plaintiff calls Kathy

22 Abbott.

23 [Witness sworn.]

24 KATHY M. ABBOTT

97

KEEFE REPORTING COMPANY

1 of lawful age, being produced, sworn and examined on  
2 the part of the Complainants, testifies and says:

3 EXAMINATION

4 QUESTIONS BY MR. VAN NESS:

5 Q. Mrs. Abbott, will you state your full name  
6 for the record please.

7 A. Kathy M. Abbott.

8 Q. Where do you live?

9 A. At 1569 North 900 East Road, Taylorville,  
10 Illinois.

11 Q. And I assume you moved in the same time  
12 your husband did back in '82?

13 A. Yes, I did.

14 Q. You've had the opportunity now to hear both

15 Mr. Logsdon and your husband's prior testimony; is that  
16 correct?

17 A. Yes.

18 Q. Based on your own observations, do you  
19 agree with their characterizations?

20 A. Yes, I do.

21 Q. Are there any observations that you would  
22 add?

23 A. Basically what they said. It's bad stuff.  
24 It's unbearable.

98

KEEFE REPORTING COMPANY

1 Q. Do you have any -- you had opportunity  
2 earlier to watch the excerpts from the video tape; isn't  
3 that right?

4 A. Yes, I did.

5 Q. Being Complainant's Exhibit 10.

6 And at some time you were the one actually  
7 holding the camera, correct?

8 A. Yes.

9 Q. I see. Would you agree that the tape  
10 excerpts that we've just played accurately portrayed  
11 what you observed with your own eyes?

12 A. Yes.

13 Q. And with your own ears?

14 A. Yes.

15 Q. To the best of your knowledge, did you or  
16 anyone else doctor the tape in any way to bring up the  
17 sound or otherwise distort it?

18 A. No.

19 Q. I'm going to ask you about the effects of  
20 the shooting activity on your life. Has the noise  
21 coming from the gun club affected your sleep?

22 A. Oh, yes.

23 Q. In what way?

24 A. I work midnights. I take care of

99

KEEFE REPORTING COMPANY

1 handicapped people here in Christian County, and I was  
2 getting no sleep.

3 Q. Normally when would you go to sleep?

4 A. Well, I go to sleep between 5:00 and 6:00  
5 at night. I leave home at 10:30. They would still be  
6 shooting when I left home.

7 Q. Has the lack of sleep affected you at work?

8 A. Yeah, because at times some of them get up,  
9 you know, and I have to help them, and it just wasn't a  
10 good thing.

11 Q. Why don't you describe your job briefly for  
12 us.

13           A.     Well, I take care of handicaps.  And  
14           basically we do their laundry, their cleaning, their  
15           cooking.  And sometimes they get up through the night  
16           and need help with stuff.  So we help them.

17           Q.     What's the nature of the residents that you  
18           have there?

19           A.     The handicapped?

20           Q.     Right.

21           A.     They live there, and then they go to work  
22           every day.  We have to get them up the next morning and  
23           get them ready for their job.

24           Q.     Are these people physically handicapped?

100

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1           A.     Both.

2           Q.     Mentally handicapped or both?

3           A.     Both.

4           Q.     I see.  So at times and during the course  
5           of your work, you're assisting them physically to get  
6           around the facility?

7           A.     Yes.  We've got two in wheelchairs and we  
8           have to do almost everything for them.  Dress them.  We  
9           don't feed them.  They feed their selves, but we have to  
10          help them get dressed, and we have to help them to the  
11          bathroom.



12 Q. It's important that you have your sleep  
13 when you take on that position?

14 A. Yes.

15 Q. Would you say that the noise coming from  
16 the gun club area has affected your physical health?

17 A. Yes. I'd be laying in bed at night. And I  
18 mean, it would drill right into my eardrums until it  
19 would just go right in your head and stay there.

20 Q. How about your emotional and mental health?  
21 Would you kind of lump those all together?

22 A. Oh, yeah. I was not a good mood person.  
23 No, I wasn't. You just didn't want to be around me.

24 Q. Had you seen a physician about the

101

KEEFE REPORTING COMPANY

1 conditions brought on by the gun club?

2 A. No. I kind of just lived with it, tried to  
3 anyways.

4 Q. How has the noise coming from the gun club  
5 area affected your use of the home?

6 A. Well, we can't enjoy our yard. Like he  
7 said, we shut our pool down for two summers. You can't  
8 have no friends and family over.

9 Q. Why is that?

10 A. Because of the shooting in the back yard.

11 Q. Is the shooting in the back yard when you  
12 have guests over sufficient to interrupt or interfere  
13 with normal conversation?

14 A. Yes, it is. I mean, it sounds like you're  
15 in Beirut, the war zone out there in your back yard is  
16 what it sounds like.

17 Q. Has the noise coming from the gun club area  
18 affected your family members' well-being?

19 A. Yes. My husband and my son both have  
20 been -- their lives have been miserable because of it  
21 and so has my pet's.

22 Q. Did you hear the rock music coming over  
23 last Friday night?

24 A. Oh, yes. I was in bed. I went to bed at

102

KEEFE REPORTING COMPANY

1 6:30 that night, and I was awake at quarter to 9:00 that  
2 night of beating on drums, and then loud music. And I  
3 had to be at work at midnight. So I had to leave at  
4 quarter to 12:00 because I didn't want to leave my son  
5 alone. So I didn't get no sleep from quarter to 9:00 to  
6 quarter to 12:00. And I went to work that night, last  
7 Friday night.

8 Q. Do you know someone by the name of Vickie  
9 Moses Abbott?

10           A.     Yes, I do.

11           Q.     Is she related to you?

12           A.     She used to be.  She was married to one of

13 my brothers-in-law.

14           Q.     She is married to one of --

15           A.     Alvin's brother.

16           Q.     One of your husband's brothers?

17           A.     Yes.

18           Q.     I see.  How long have you known her?

19           A.     I don't know.  I've been married to him for

20 21 years, so.

21           Q.     Did you know her before then?

22           A.     No.

23           Q.     Do you know where she resided?  I mean,

24 where does she reside now?  Where does she live?

103

KEEFE REPORTING COMPANY

1           A.     She lives in Georgia now.

2           Q.     She lives in Georgia now?  Do you know

3 where she lived before that?

4           A.     A long time ago?

5           Q.     Yes.

6           A.     Yeah.  She lived right next door to me, but

7 I didn't live there then, but she lived where the Manns

8 live, where the Manns live now.

9 Q. Her middle name is Moses?  
10 A. Her maiden name.  
11 Q. Is that a maiden name?  
12 A. Yes.  
13 Q. When she was not a married woman, just  
14 Vickie Moses, did she live in the area around where you  
15 live now?  
16 A. Her father did, yes.  
17 Q. Her father did?  
18 A. Yes.  
19 Q. And did in fact he live there prior to the  
20 formation of the Southfork Gun Club in 1968?  
21 A. Yes, he did. He lived there then in '68.  
22 MR. VAN NESS: I think that's all the  
23 questions I have for you. Thank you.  
24 HEARING OFFICER LANGHOFF: Thank you,

104

KEEFE REPORTING COMPANY

1 Ms. Abbott.  
2 THE WITNESS: Thank you.  
3 [Lunch break.]  
4 HEARING OFFICER LANGHOFF: We're back on  
5 the record. For the record, it's 1 o'clock.  
6 And you may please call your next witness.  
7 MR. VAN NESS: Thank you, Mr. Hearing

8 Officer. Complainants call Mr. Darrell Mann.

9 HEARING OFFICER LANGHOFF: Thank you.

10 [Witness sworn.]

11 HEARING OFFICER LANGHOFF: Thank you.

12 DARRELL E. MANN

13 of lawful age, being produced, sworn and examined on

14 the part of the Complainants, testifies and says:

15 EXAMINATION

16 QUESTIONS BY MR. VAN NESS:

17 Q. Mr. Mann, for the record, will you state  
18 your full name and will you spell it for the court  
19 reporter please.

20 A. My name is Darrell Eugene Mann. First  
21 name, D-a-r-r-e-l-l; Eugene, E-u-g-e-n-e; Mann, M-a-n-n.

22 Q. Thank you. Mr. Mann, where do you live?

23 A. I live at 1577 North 900 East Road,  
24 Taylorville, Illinois.

105

KEEFE REPORTING COMPANY

1 Q. Are you employed outside the home?

2 A. Yes, I am.

3 Q. And what is the nature of your position?

4 A. I work in an underground coal mine, Turriss  
5 Coal, in Williamsville, Illinois.

6 Q. And now how long have you been living at

7 the address you mentioned ago?

8 A. We moved there in April of 1997. So  
9 approximately a little over five years, five and a half  
10 years.

11 Q. What was the nature of the area when you  
12 moved in?

13 A. Well, when we looked at the location, my  
14 wife and I thought it would be the ideal place to build  
15 because we enjoyed the country, and it was quiet.  
16 Actually, the first year, year and a half we were there,  
17 there was nothing but sounds of birds, and we watched  
18 deer and everything else on our property.

19 Q. Now, I'm going to ask you to look at what's  
20 been labeled Complainant's Exhibit 1. Do you recognize  
21 that, sir?

22 A. Yes, I do.

23 Q. Do you agree that that map is generally  
24 accurate?

106

KEEFE REPORTING COMPANY

1 A. Yes, it is, other than the 3.666 acres  
2 that's just west of what they have marked around here as  
3 Mann, that's also my property, which runs right up  
4 against the lake.

5 Q. Do you see where they -- where Mr. Logsdon

6 has indicated that you live? Is this a correct  
7 representation of your lot?

8 A. Yes, it is.

9 Q. So you own that lot?

10 A. Plus the other 3.666 acres.

11 Q. Now, I'm going to ask you to look at the  
12 map again at the area that was marked by Mr. Logsdon  
13 with the pink highlighter, and ask you whether you  
14 recognize that as the gun club area.

15 A. Yes, I would say that's an accurate  
16 location.

17 Q. And the red ink mark, does that indicate  
18 the general direction? Do you concur with those as  
19 well?

20 A. Yes.

21 Q. When you moved in, in April of 1997, do you  
22 recall whether there were any above-ground structures in  
23 place on that property across the lake?

24 A. All I seen -- I fished that lake. All I

107

KEEFE REPORTING COMPANY

1 seen was just weeds and timber growing over there.  
2 There was no above-ground structures as far as man-made  
3 buildings or anything else. It was just natural things  
4 there.

5 Q. To the best of your recollection, when was  
6 the first time you heard gun club activity at that site?

7 A. I would say approximately it would have  
8 been in late 1998, year of 1998.

9 Q. And what was the nature of that activity?

10 A. I heard a few gunshots starting, and then  
11 it gradually increased as time went on towards the end  
12 of the year in early 1999.

13 Q. Do you recall Mr. Logsdon's testimony  
14 earlier today about the frequency and duration of the  
15 shooting at the gun club?

16 A. Yes.

17 Q. Would you concur generally with the remarks  
18 he made?

19 A. Yes, I would.

20 Q. Do you have anything that you would add to  
21 the comments?

22 A. Other than besides the shooting, there was  
23 never any type of signs as far as safety, no trespassing  
24 signs or anything else, warning people about the

108

KEEFE REPORTING COMPANY

1 shooting activities at the gun club, which I  
2 believe -- of course, this is a noise hearing, but also  
3 that was supposed to be required by law as far as the



4 zoning was concerned.

5 Q. Now, Mr. Mann, you've already indicated  
6 your employment. Do you also have other employment  
7 history?

8 A. Yes, I do. I was chief of police of  
9 Mt. Auburn for 10 years. I hold a county commission for  
10 a sheriff's deputy, but I took an extended leave of  
11 absence. And I also raise cattle and horses.

12 Q. So you are on a leave of absence as a  
13 deputy sheriff of Christian County?

14 A. Yes, that's correct.

15 Q. Have you personally witnessed shooting  
16 activity at the gun club site?

17 A. Yes, I have.

18 Q. What were the first time, if you recall,  
19 the first time you witnessed such shooting activity?

20 A. The first time would have been, as I stated  
21 before, probably in late 1998, somewhere around that  
22 area, that time period. I went down to my property. I  
23 could observe my property. And I also went down to  
24 Mr. Collins' property and watched them shoot from there.

109

KEEFE REPORTING COMPANY

1 Q. When you were down visiting Mrs. Collins,  
2 did you observe gunfire coming from the gun club area?

3           A.     Yes.

4           Q.     Did the gunfire appear to be directed in  
5 the general direction of Mrs. Collins' property?

6           A.     When they first started shooting, some of  
7 the traps would travel in that area. I mean, some of  
8 the shots. I mean, not all of them, but some of them  
9 would travel in that location. I don't know if it would  
10 be exactly at his residence, but it would be in the  
11 close vicinity as far as where the projectiles would be  
12 going.

13          Q.     Would you say that the noise levels were  
14 higher there in Mrs. Collins' property than, say, at  
15 your property?

16          A.     I would say, yes, they were, but they were  
17 still very loud at my property.

18                   MR. VAN NESS: Did I say Mrs. Martin's  
19 property?

20                   MR. LOGSDON: Collins.

21                   MR. VAN NESS: I'm sorry.

22                   Q.     I meant Mrs. Martin's  
23 property.

24          A.     Yes. Mrs. Martin was actually my late

110

KEEFE REPORTING COMPANY

1           wife's stepmother. So she was my mother-in-law. And we

2 had -- my daughter and some of her cousins and friends  
3 would go back in her back pasture, but the beebees were  
4 falling on her property actually from the gun club.  
5 They said that they couldn't carry that far, but they  
6 were actually pelting the children, plus me and a couple  
7 of the other neighbors back there. And we were also  
8 getting hit with pellets.

9 Q. Did Mrs. Martin complain to you about the  
10 noise?

11 A. Yes. She didn't like it either, but she  
12 was scared to take any type of action because she feared  
13 of what might happen to her, repercussions from the gun  
14 club members.

15 Q. Now, you've already testified that you  
16 agree with Mr. Logsdon's testimony about the frequency  
17 and duration of shooting at the gun club; is that right?

18 A. Yes, that's correct.

19 Q. Did you ever have an occasion to measure  
20 the sound levels of the noises you heard?

21 A. Yes, I did.

22 Q. Were you basically using the same kind of  
23 sound meter that Mr. Logsdon was using?

24 A. Actually, it was the same sound meter.

1 Q. The exact same one?

2 A. Yes, it was.

3 Q. Before you used it, did you inform yourself  
4 as to how noise measurements should be made?

5 A. Yes. I was instructed by reading the  
6 instructions from the sound meter. Also kind of -- I'm  
7 not familiar with the chart right now because it's been  
8 so long, but I also read some literature that was given  
9 to us from the Illinois Pollution Control Board.

10 Q. I see.

11 A. Mr. Zak, I believe it was.

12 Q. From the EPA?

13 A. Yes. That's when he was with the EPA.

14 Q. You heard Mr. Logsdon testify this morning  
15 as to the methodology he used to measure the sound?

16 A. Yes, that's correct.

17 Q. Did you employ the same methodology or did  
18 it vary in some aspect?

19 A. I used the same method, but most of mine  
20 were on the quicker response.

21 Q. You were on the A weighted fast response?

22 A. The fast response, yes.

23 Q. Now, you heard Mr. Logsdon say earlier this  
24 morning that he made a record of his sound meter

1 readings?

2 A. Yes, that's correct.

3 Q. Did you not? Did you also make such a  
4 record?

5 A. I wrote my readings down on legal paper,  
6 legal pad paper. Actually, it was yellow paper, I  
7 believe.

8 MR. VAN NESS: Now, Mr. Hearing Officer, I  
9 have here the Complainant's Exhibit Number 12 for  
10 identification. I would ask you, Mr. Hearing Officer,  
11 to permit me to use the copy of the original, but I do  
12 have the original yellow copy if you desire.

13 HEARING OFFICER LANGHOFF: That's fine.  
14 The copy is fine.

15 MR. VAN NESS: Thank you.

16 [Complainant's Exhibit Number 12 was  
17 marked for identification.]

18 Q. (By Mr. Van Ness) Now, Mr. Mann, I ask you  
19 to look at what's been marked Complainant's Exhibit 12  
20 for identification, and ask you if that is in fact the  
21 recorded gunshot reports that you mentioned a few  
22 moments ago.

23 A. Yes, it is.

24 Q. And that is in your handwriting?

1           A.     Yes, this is my handwriting.

2           MR. VAN NESS:  I move for admission.

3           HEARING OFFICER LANGHOFF:  Exhibit 12 will  
4     be admitted.

5           MR. VAN NESS:  Exhibit 12?

6           HEARING OFFICER LANGHOFF:  Exhibit 12 will  
7     be admitted.

8                                 [Complainant's Exhibit Number 12 was  
9                                 admitted into evidence.]

10          MR. VAN NESS:  Thank you.

11                                Q.    Now, Mr. Mann, for the  
12     record, why don't you read the very, very top of the  
13     third page.

14          A.     Okay.

15          Q.     What does it say there?

16          A.     It says Rita Martin, 5-28, 2000.

17          Q.     Now, I take it from that, that these  
18     observations that are recorded below were recorded at  
19     Mrs. Martin's residence?

20          A.     Yes, they are.

21          Q.     Would you indicate -- go ahead and use one  
22     of the pens there.  Use the blue pen, I guess, and  
23     indicate roughly where you were standing when you took  
24     these readings.

1                   Mr. Hearing Officer, do you want him to  
2                   initial it or something?

3                   THE WITNESS: Do you want me to put an "X"  
4                   there?

5                   HEARING OFFICER LANGHOFF: Put an "X" there  
6                   and let me read it into the record.

7                   THE WITNESS: I put an "X" right there.

8                   HEARING OFFICER LANGHOFF: Let the record  
9                   reflect that Mr. Mann put an "X" on the Martin property  
10                  where he made those readings.

11                  MR. VAN NESS: Thank you.

12                  HEARING OFFICER LANGHOFF: A blue "X."

13                  MR. VAN NESS: Thank you.

14                                Q. And I'm going to very  
15                   briefly ask you to explain generally the record that  
16                   follows that heading on that page. Say, for instance,  
17                   the time apparently expressed 1618 and so forth. I'm  
18                   assuming you're using the 24 hour clock?

19                   A. Right. That's actually military time and  
20                   also time that we used, well, actually when I was in law  
21                   enforcement.

22                   Q. For those members of the board who were not  
23                   in the military or in law enforcement, 1616 correlates  
24                   to what?

1           A.    1616 correlates to 4:16 p.m. in the  
2           afternoon.

3           Q.    Thank you.

4           A.    Anything afternoon is considered -- like,  
5           1 o'clock would be 1300 hours, 2 o'clock would be  
6           1400 --

7           Q.    That's fine. Thank you.

8           A.    -- and so forth.

9           Q.    Now, I note that the readings on this page,  
10          like those on the page that were produced by  
11          Mr. Logsdon, are expressed in two digit numbers; is that  
12          correct?

13          A.    That's correct.

14          Q.    And do those correlate to the readings that  
15          you were taking off the meter?

16          A.    Yes, that's correct.

17          Q.    And it's your testimony that the readings  
18          that you took were accurate?

19          A.    Yes, they were.

20          Q.    Now, I noticed that under 1619 --

21          A.    Yes.

22          Q.    -- for example, I see readings ranging from  
23          70 to 86. How did you determine 86? Was it necessary  
24          for you to recalibrate the machine or --



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1           A.     I had the machine calibrated at the 70  
2     level, but it went way above. I mean, it measured past  
3     the required marker on the readings. I did recalibrate  
4     on some of the different ones, like the 60s and stuff,  
5     because of the sound. They were using different type of  
6     shots at the gun club. Some were using heavier loads  
7     than others. So sometimes it wasn't necessary to  
8     recalibrate the machine.

9           And, actually, some of the smaller amounts  
10    of readings that I did take was because I  
11    couldn't -- you couldn't get the readings quick enough.  
12    So there were several shots that I did not record on  
13    this.

14          Q.     So it's your testimony that the reports  
15    that are reflected here on this sheet, for instance, do  
16    not comprise all the reports heard in that time frame?

17          A.     That's correct.

18          Q.     Those which simply reflect the reports that  
19    you were able to reset the machine and calibrate and  
20    then record?

21          A.     And read correctly, yes.

22          Q.     All right, thank you. Now, I see the  
23    report continued to a second page; is that correct?

24

A. That's correct.

117

KEEFE REPORTING COMPANY

1 Q. And all of these are taken in the same  
2 place in the same way at the same time except as noted?

3 A. These were taken from mine on the second  
4 page.

5 Q. From your home?

6 A. From my home.

7 Q. So the second page are reports from your  
8 house?

9 A. My house, yes.

10 Q. And that's a little bit further away than  
11 Mrs. Martin's?

12 A. That's a little bit further away from  
13 Mrs. Martin, from the gun club, yes.

14 Q. Now, I note the numbers that are reflected  
15 on the second page tend to be somewhat lower than the  
16 numbers on the first page.

17 A. They are lower because I'm a little bit  
18 further away than Mrs. Martin, yes.

19 Q. And also you're on the opposite direction  
20 from the gunfire; is that fair?

21 A. That's correct. It was not projected in my  
22 way, actually. It was from the side.

23                   Q.     You mentioned that a load was different for  
24     some guns than others that were being used at the gun

118

KEEFE REPORTING COMPANY

1     club.

2                   A.     Yes, they were.

3                   Q.     How did you know that?

4                   A.     You could tell by the sound.  And also we  
5     had set a sheet down in the corner of my mother-in-law's  
6     property, and we gathered different pellets, and the  
7     pellets were different in size also.

8                   Q.     Oh.

9                   A.     So with the sounds and the pellets and  
10    everything, you could tell the difference.  Anyone that  
11    has shot a gun or fired a gun, which I've been  
12    acquainted with guns for most of my life, I could tell  
13    the difference in the loads that they were shooting from  
14    the guns.

15                  Q.     Thank you.  I'm going to ask you, Mr. Mann,  
16    the same questions I've asked the other witnesses  
17    today.  The effects of the noise from the gun club on  
18    your quality of life.

19                  A.     On my quality of life?  It's kind of  
20    rough.  I did work several jobs.  I had to take a leave  
21    of absence from the law enforcement because of all the

22 activity going on in the gun club. Lack of sleep.  
23 Concern for my children, concern for their schooling,  
24 for their rest.

119

KEEFE REPORTING COMPANY

1 It's affected me at work, since I didn't  
2 have enough sleep. I work at a dangerous occupation in  
3 the underground coal mine with heavy equipment. You  
4 have to watch the roofs, the top and stuff because of  
5 the falls. My coworkers, I probably put them in more  
6 danger than I should have. And it's all due because of  
7 the tension and lack of sleep and psychological effect  
8 it's had on my life.

9 Q. Has it affected your use of your home?

10 A. Yes, it has. We, up until January, we was  
11 deprived the use of any outside activities of our home.

12 We tried to sit and watch a television  
13 program. We turned the television up so loud, it would  
14 just about shake the windows in your house. You  
15 couldn't hear your television because of the gunshots.

16 You couldn't enjoy your home none  
17 whatsoever. I mean, to get any type of enjoyment and  
18 peace, you would have to leave and go somewhere just to  
19 get a little bit of peace and quiet.

20 Even after they were proved that it was

21 unlawful to be shooting over there, they continued. And  
22 we could not get any type of help from any, any type of  
23 legal system in this county, from the Village of  
24 Kincaid, or did we get any type of a relief from the gun

120

KEEFE REPORTING COMPANY

1 club. They had no sympathy for anyone that lived out  
2 there as long as they got to do what they wanted to do.

3 And the statement that was made to me from  
4 Mr. Binegar is that he did not care what we wanted to do  
5 or what we wanted, but they were going to do what they  
6 wanted to do, and there was nothing we could do about  
7 it. And, apparently, he was correct.

8 Q. Do you recall when he said that to you?

9 A. That was back whenever they first started,  
10 probably in the early 1999 period.

11 Q. Have you spoken to Mr. Binegar since?

12 A. No, I haven't.

13 Q. Would you say the noise from the gun club  
14 affected your physical health then?

15 A. It has also, yes, it has. I mean --

16 Q. Your emotional health?

17 A. And emotional. The emotional, huh?

18 My wife passed away in January. They  
19 deprived her the use of our home or any type -- any type

20 of a good life the last two and a half years of her  
21 life. Up until the week before she died, they were  
22 shooting over there and she didn't get to enjoy the  
23 house even the last week of her life because she was in  
24 the hospital dying.

121

KEEFE REPORTING COMPANY

1 She was on nerve medication,  
2 antidepressants. I was taking her to the hospital,  
3 coming home listening to the gunshots. She had brain  
4 tumors.

5 The gunshots -- I don't know how to explain  
6 it. They were tearing her up so bad, and there was  
7 nothing I could do about it.

8 Q. Did you consult a physician on your own  
9 behalf, sir?

10 A. Yes, I have.

11 Q. Has your doctor prescribed any medication?

12 A. I'm on Paxil.

13 Q. And what is that?

14 A. 25 milligrams of Paxil. It's an  
15 antidepressant. And I'm also on Xanax, which is a nerve  
16 medication.

17 Q. Were you on those medications prior to the  
18 breakout of shooting at the gun club?

19 A. No, I wasn't.

20 Q. And you already mentioned your wife. And I  
21 know you have children as well; is that correct?

22 A. Yes, I do. I have a 14-year-old daughter  
23 at home.

24 Q. Has the noise, to your knowledge, had any

122

KEEFE REPORTING COMPANY

1 effect on her?

2 A. Yes, it had. She couldn't sleep at night  
3 when they were shooting. I mean, of course, they're not  
4 shooting now. So she gets her rest. But before that,  
5 she could not get to bed until the shooting stopped.

6 I'd go back there, and she'd still be  
7 awake. And she didn't want to get up to go to school in  
8 the morning because she would still be tired.

9 It affected actually some of her school  
10 activities. And she's always been a straight "A"  
11 student, and some of her subjects had dropped down to  
12 "Bs" and stuff, but since they've quit, she's a  
13 straight "A" student again.

14 Q. You mentioned earlier that the  
15 difficult -- let me rephrase that.

16 You mentioned earlier that you could not  
17 receive any relief from the county or the village; isn't

18 that correct?

19 A. Yes, that's correct.

20 Q. What makes you think that?

21 A. Because we've complained.

22 We went to the court system. We had it  
23 proven they were wrong. And even when they knew that  
24 they were wrong, it's just like some of the zonings and

123

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1 stuff. We could get no assistance from the state's  
2 attorney. He was going to leave it up to the judicial  
3 system and to the Illinois Pollution Control Board  
4 before he made a decision on what he was going to do,  
5 even though he knew they were in the wrong.

6 The Village of Kincaid, we made  
7 presentations to them also at the different board  
8 meetings. In our presentation, we showed them facts and  
9 stuff where they weren't complying with their agreement  
10 with the village or with the zoning laws and stuff. And  
11 they would not do anything about it because most of the  
12 board members at the Village of Kincaid are either  
13 related to one of the gun club members or belong to the  
14 gun club or have friends that shoot at the gun club.

15 Q. Do you know whether Mr. Binegar, who is  
16 president at the gun club, is also a member of the



17 county board?

18 A. Yes. He is also on the zoning board.

19 Q. Did you hear the rock music coming from the  
20 gun club area last Friday?

21 A. Yes, I did.

22 Q. Do you want to tell us about that?

23 A. Well, at approximately -- like my neighbor  
24 said, it started about 15 until 9:00, the drums. My

124

KEEFE REPORTING COMPANY

1 daughter was on the trampoline at the time. I told her,  
2 I said, "I don't know where this music is coming from,  
3 but it sounds like a band."

4 Mr. Zini has a band, but it's never been  
5 that loud. And the way it was coming, we knew it wasn't  
6 coming from his house. It was coming from the direction  
7 of Mr. Collins' and Mr. -- and Michael's place. And I  
8 didn't see any lights on over there. So I knew it  
9 probably wasn't Michael. I mean, a band and everything,  
10 because normally if we have any type of function, we  
11 invite each other anyway.

12 And then I figured out it was coming from  
13 the gun club. I mean, it was echoing off the lake, and  
14 when it echoes off the lake, it just projects a little  
15 bit louder noise anyway.

16 Q. And could you hear it inside your home?  
17 A. Yes, I could.  
18 Q. What effect did it have on you personally?  
19 A. It was very aggravating, and it  
20 started -- it started getting to me again because they  
21 were just -- actually, I knew they were doing it to  
22 aggravate us. I don't know any other reason why they  
23 would have done it, even after they were shown they  
24 couldn't shoot over there. And they were going to show

125

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1 us that they could cause some sort of noise or something  
2 to cause us -- to just to be rude, actually.

3 Q. Now, you heard Mr. -- you heard Mr. Abbott  
4 and you heard Mr. Logsdon earlier talking about their  
5 attempts to respond to the rock music. Did you do  
6 anything in response to that?

7 A. Well, at approximately around 9:30, my  
8 daughter had an accident. She broke her arm on the  
9 trampoline. So I had to leave. I didn't return home  
10 until about 10 o'clock Sunday morning because my  
11 daughter had to have an operation. She broke her arm so  
12 bad.

13 Q. Were you surprised to hear that the gun  
14 club had obtained a permit from the Village of Kincaid

15 to operate the rock music?

16 A. Actually, it was a surprise about the music  
17 and stuff, but as far as being surprised that they would  
18 do something like that, no.

19 Q. Are you aware of any efforts underway at  
20 present that involve both the gun club and the village  
21 and the county?

22 A. Yes. I believe they have submitted some  
23 paperwork to the attorney general to see if it's legal  
24 for them to rezone the area for them to shoot legally.

126

KEEFE REPORTING COMPANY

1 They are making an attempt to have the permit  
2 injunction, of which we have against them, overturned in  
3 the judiciary system.

4 And they're also trying to get added to the  
5 zone -- the zoning. Everything we had in the permanent  
6 injunction, they stated that what they wanted to have  
7 added to the zoning overturned in which would make them  
8 legal to shoot and they could be rezoned.

9 Q. And that would be not withstanding the fact  
10 that your homes are all well within the distance?

11 A. Yeah, regardless of whether our homes are  
12 there or not.

13 Q. Would it surprise you if the village were

14 to issue a permit for tomorrow night?

15 A. It would not surprise me in the least.

16 MR. VAN NESS: No further questions.

17 HEARING OFFICER LANGHOFF: Okay. Thank  
18 you.

19 Actually, Mr. Mann, I do have one question,  
20 I think, that would be helpful for the board in  
21 rendering its decision in this case.

22 EXAMINATION

23 QUESTIONS BY HEARING OFFICER LANGHOFF:

24 Q. Could you briefly describe the difference

127

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1 in your life from the time in 1998, or whenever the gun  
2 club started really cranking up, and to the time it  
3 ended, I guess, the day before the preliminary  
4 injunction and since the time of the preliminary  
5 injunction to, I guess, right before the time of the  
6 loud rock music last Friday night when there was, I take  
7 it, really no shotgun blasts there?

8 A. So you would like, like, '98 when they  
9 started?

10 Q. Can you compare the two times?

11 A. The two times, with the exception that  
12 there's a lot of things happened in my life since then,

13 I mean, like I said before, my wife died approximately a  
14 week after they had issued it, the temporary  
15 injunction.

16 But as far as being at peace where I can  
17 rest more, I can rest more now since there has been no  
18 shooting. We have been able to use our outside for,  
19 say, even just having a few friends over to cook out. I  
20 mean, you can enjoy the peace.

21 The deer have started coming back in my  
22 back yard. You can go back and you can see wildlife  
23 again. When they were shooting, all the wildlife left  
24 the area. You wouldn't see a deer. I used to have twin

128

KEEFE REPORTING COMPANY

1 fawns there every year, and you wouldn't see a deer.  
2 Actually, you wouldn't hardly see a raccoon or any type  
3 of animal because they would scare them away, they were  
4 shooting so loud. And since they have ceased to shoot,  
5 the wildlife have come back. The geese have come back  
6 to the lake. There are ducks on the lake. I would see  
7 cranes and that, and I see deer out my back pasture.

8 Q. Do you feel better?

9 A. I'm starting to feel better, yes, unless  
10 they start their music now. And I know that they're  
11 going to try to find ways with noise just to aggravate

12 us. I know they will.

13 And what they're using -- since I believe  
14 the permit injunction stated no shooting, firearms  
15 activity or gun club activity, they're going to try to  
16 get around it and issue picnic permits and everything  
17 else for them to use some sort of band or loud music or  
18 any type of noise just to aggravate us.

19 I know these people, because I grew up in  
20 this area all my life. And I know how the friends will  
21 stick together and families will stick together in that  
22 area. And I know exactly what they will do.

23 Q. Okay. Thank you. I would ask you to, if  
24 you could, draw an "X" where you took the second page of

129

KEEFE REPORTING COMPANY

1 measurements on your own property. I don't think that's  
2 been done.

3 A. Okay. It would be approximately right.

4 Q. And that's close to your house?

5 A. That's close to my house, probably 30, 40  
6 feet away from my house.

7 HEARING OFFICER LANGHOFF: Let the record  
8 reflect that Mr. Mann put on "X" on his property that's  
9 labeled Mann on Exhibit 1.

10 Okay. Thank you, Mr. Mann.

11 MR. VAN NESS: Thank you, Mr. Hearing  
12 Officer.

13 HEARING OFFICER LANGHOFF: Thank you.

14 MR. VAN NESS: We've got Exhibit 12 in?

15 HEARING OFFICER LANGHOFF: Yes.

16 MR. VAN NESS: All right. You should not  
17 have an Exhibit 11.

18 HEARING OFFICER LANGHOFF: There's two  
19 gaps. Let me check. I believe I have no Exhibit 9 and  
20 no Exhibit 11.

21 MR. VAN NESS: All right. Let me go back  
22 and look in my notes to see where that is. No, that's  
23 correct.

24 HEARING OFFICER LANGHOFF: Good. Next

130

KEEFE REPORTING COMPANY

1 witness.

2 MR. VAN NESS: The plaintiff calls David  
3 Collins.

4 [Witness sworn.]

5 HEARING OFFICER LANGHOFF: Thank you.

6 DAVID L. COLLINS

7 of lawful age, being produced, sworn and examined on  
8 the part of the Complainant, testifies and says:

9 EXAMINATION

10 QUESTIONS BY MR. VAN NESS:

11 Q. Mr. Collins, can you state your full name  
12 for the record please.

13 A. David L. Collins.

14 Q. Mr. Collins, what is your address?

15 A. 1573 North 900 East Road, Taylorville,  
16 Illinois.

17 Q. Mr. Collins, are you employed outside the  
18 home?

19 A. Yes, I am.

20 Q. What's the nature of your employment?

21 A. I'm the environmental director of Doctors  
22 Hospital in Springfield, Illinois.

23 Q. And what does the job entail?

24 A. This job entails keeping the hospital clean

131

KEEFE REPORTING COMPANY

1 more or less. I have a day shift staff and I have a  
2 second shift staff.

3 Q. What are your hours of that employment?

4 A. Usually my hours is from 4:30 in the  
5 morning to 4 o'clock at night.

6 Q. What time do you normally get up on a  
7 workday?

8 A. 3 o'clock.



9 Q. Pardon?

10 A. 3 o'clock.

11 Q. So you would normally go to bed at what?

12 A. Usually around 8:30, quarter to 9:00,

13 9 o'clock at night. A long day.

14 Q. I'm going to ask you to look at

15 Plaintiff -- Complainant's Exhibit 1. Do you have that

16 in front of you?

17 A. Yes, I do.

18 Q. Do you know what that is?

19 A. Yes. This is a map, I guess.

20 Q. Do you recognize that as the map of the

21 area in which you live?

22 A. Mm-hmm.

23 HEARING OFFICER LANGHOFF: That's "yes"?

24 THE WITNESS: Yes, I do.

132

KEEFE REPORTING COMPANY

1 HEARING OFFICER LANGHOFF: You have to

2 answer "yes" or "no" so the court reporter can get it.

3 THE WITNESS: All right.

4 HEARING OFFICER LANGHOFF: Thank you,

5 Mr. Collins.

6 Q. (By Mr. Van Ness) Do you agree that this

7 map is generally accurate?

8 A. Yes.

9 Q. And do you agree that the markings  
10 indicated thereon by Mr. Logsdon and I believe Mr. Mann  
11 and Mr. Abbott are generally accurate and correct?

12 A. Yes.

13 Q. I'm going to ask you to look at the area  
14 that's marked with the pink highlighter. Do you  
15 recognize that as the gun club area?

16 A. Yes, I do.

17 Q. Do you recall when you -- back up.

18 When did you move into your home,  
19 Mr. Collins?

20 A. I moved in there in 1986 March.

21 Q. What month?

22 A. March 13th of 1986.

23 Q. Do you recall whether there were any  
24 above-ground structures in place in that property when

133

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1 you moved in?

2 A. No, there was not.

3 Q. Now, you testified that you lived in the  
4 area since 1986. During that time, have you observed  
5 changes in the area across the lake?

6 A. Yes, I have.

7 Q. Can you just very generally describe those?

8 A. Well, when I moved there in 1986, there was  
9 nothing on the other side of the lake but brush, trees,  
10 timber. And since that time, why, there has been a gun  
11 club started over there. There's been buildings erected  
12 over there, light standards put in over there.

13 Q. Now, did you ever have occasion to take  
14 photographs of the -- of what we're calling the gun club  
15 area?

16 A. Well, yes, I did. We were out one winter  
17 there. I had bought my wife a very expensive camera,  
18 and she was outside taking pictures for the photo  
19 album. And it just so happens one of the pictures she  
20 took back then was a picture across the lake where the  
21 gun club is now.

22 Q. Were you intentionally taking a picture of  
23 that area across the lake?

24 A. No, I was not.

134

KEEFE REPORTING COMPANY

1 Q. There was no particular reason, was there?

2 A. No.

3 Q. What were you actually taking a picture of?

4 A. We were taking a picture of the lake, okay?

5 And just the surrounding area, all right? And also west

6 of me, we were taking pictures of that.

7 Q. So you were taking a picture of your yard  
8 and the lake? You were more or less accidentally taking  
9 in the area across the lake from you?

10 A. Yes, sir.

11 Q. And that would be the area where we've  
12 referred to here then as the gun club area?

13 A. Yes.

14 Q. I'm going to ask you, do you remember what  
15 Christmas you bought that for your wife?

16 A. Yes. Let's see. Those pictures were taken  
17 in '97. So it was in '96 when I bought her the camera.

18 [Complainant's Exhibit Number 13 was  
19 marked for identification.]

20 Q. (By Mr. Van Ness) I'm going to show you  
21 what's been marked Complainant's Exhibit 13.

22 And again, Mr. Hearing Officer, I have the  
23 original photograph, and then I have digital  
24 reproductions.

135

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1 HEARING OFFICER LANGHOFF: The color copy  
2 is fine.

3 Q. (By Mr. Van Ness) And I'll ask you,  
4 Mr. Collins, if that is a picture which you referred to

5 moments ago?

6 A. Yes, it is.

7 MR. VAN NESS: And move for its admission.

8 HEARING OFFICER LANGHOFF: Exhibit 13 is  
9 admitted.

10 [Complainant's Exhibit Number 13 was  
11 admitted into evidence.]

12 Q. (By Mr. Van Ness) Now I'm going to ask you  
13 to kind of describe what you see there. Can you  
14 identify the property in the foreground?

15 A. Yes. On this side of the lake, which would  
16 be the north side, is my property. And that's where I'm  
17 standing taking the pictures of the lake. And if you go  
18 across south to the lake, that is the area now where the  
19 gun club exists as of now, where it was not before.

20 Q. I'm going to ask you to take that blue pen  
21 that you're holding in your hand and basically indicate  
22 with an "X" and a small arrow both the location where  
23 the pictures were taken and the direction from which the  
24 picture was taken.

136

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1 A. You want it on the map, sir?

2 Q. Yes, please. Let the record show that the  
3 witness is placing a mark on Complainant's Exhibit

4 Number 1.

5 HEARING OFFICER LANGHOFF: Where did you  
6 put your mark?

7 [Witness indicated.]

8 HEARING OFFICER LANGHOFF: Why don't you  
9 put a "P" by that so that way we'll denote that that's  
10 the photo. There's so many "Xs" on there.

11 MR. VAN NESS: All right.

12 [Witness indicated.]

13 HEARING OFFICER LANGHOFF: Thank you.

14 Q. (By Mr. Van Ness) Thank you, Mr. Collins.

15 Now, I'm going to ask you, is the body of  
16 water in the middle of the picture, I presume that is in  
17 fact a piece of Lake Kincaid, is it not?

18 A. Yes, it is.

19 Q. Now, the picture appears to have been taken  
20 in the wintertime; is that correct?

21 A. Yes, it is.

22 Q. That's snow on the ground, right?

23 A. Yes, it is. It was very cold.

24 Q. And I note that the trees for the most part

137

KEEFE REPORTING COMPANY

1 do not have leaves on them anymore; is that correct?

2 A. No, they don't.

3 Q. So you can see pretty well, can you not,  
4 through the property line across the lake from you?

5 A. Yes, most definitely.

6 Q. If you were to take a picture today at that  
7 same exact same location, would it appear the same?

8 A. No, it would not.

9 Q. What would appear in that picture now?

10 A. If you were to take a picture today, you  
11 would see one, two -- you'd see three buildings and four  
12 big tremendous light standards over there is what you  
13 would see.

14 Q. And those are the buildings and light  
15 standards previously referred to by other witnesses  
16 today?

17 A. Yes.

18 Q. Now, I'd ask you to look at the back of the  
19 photograph. Do you see two sets of numbers there, sir?

20 A. Yeah, yes.

21 Q. What do you see on the left side?

22 A. I see a 04.12.97.

23 Q. And do you understand that to be the date?

24 A. Yes.

138

KEEFE REPORTING COMPANY

1 Q. That would be the date the photograph was

2 developed?

3 A. Yes, it was.

4 Q. To the best of your recollection, what were  
5 the first time you heard gun club activity at that site  
6 across the lake?

7 A. Are you speaking of a lot of gunfire?

8 Q. I'm talking organized activity by the gun  
9 club of any kind.

10 A. I'd say in '98 is when the noise of gunfire  
11 started over repeatedly.

12 Q. Now, did you hear gunfire previous to that?

13 A. Maybe three to four times since I had lived  
14 there since 1986. Like on a Saturday, maybe a Sunday,  
15 you might hear it maybe for a half hour to an hour, and  
16 then it would just disperse. And then other times you'd  
17 hear people over there rabbit hunting or maybe pheasant  
18 hunting.

19 Q. So three or four times in the last -- in  
20 the 15 years prior to the gun club coming on the scene,  
21 you might have heard some gunfire?

22 A. Yes, yes.

23 Q. Have you personally witnessed shooting  
24 activity at the gun club site?



1           A.     Yes, I have. I can stand out right in my  
2 yard and see them shoot over there. That's how close I  
3 am.

4           Q.     I am sorry?

5           A.     That's how close I am.

6           Q.     Have you had -- well, using the dimensions  
7 on the map, I'm referring again now to Complainant's  
8 Exhibit 1. Can you estimate the distance from the gun  
9 club shooting area to your property?

10          A.     Yes. From my property line to where  
11 they're shooting is approximately 400 feet.

12          Q.     400 feet?

13          A.     Yes.

14          Q.     And from your residence, say --

15          A.     I'm saying from my residence would probably  
16 run maybe 425 to 450.

17          Q.     And what lies between your property line  
18 and the gun club?

19          A.     Not a thing except a body of water.

20          Q.     Do you recall Mr. Logsdon's previous  
21 testimony about the frequency and duration of shooting  
22 at the gun club?

23          A.     Yes.

24          Q.     Based on your own observations, do you

1 agree with his characterizations?

2 A. Yes, I do.

3 Q. Are there any observations that you would  
4 wish to make in addition to his, relative to the  
5 frequency and during of shooting?

6 A. No, except just it's horrible. I mean, the  
7 noise would drive you up a wall when they were doing  
8 that over there, shooting constantly. And shooting all  
9 times of day, all times of night. It didn't make any  
10 difference to them people.

11 Q. Now, you indicated to me that your work  
12 required that you go to bed around 8:30 in the morning  
13 on a normal day?

14 A. Yes, it does.

15 Q. Do you get up around 3:30 in the morning?

16 A. 3 o'clock, sir.

17 Q. 3 o'clock. Has the noise coming from the  
18 gun club affected your sleep?

19 A. Most definitely.

20 Q. In what way?

21 A. I don't get any sleep, period. I get up at  
22 3 o'clock. I come home and like at 4:00 of an evening,  
23 I go to bed. They start shooting until 11, 12 o'clock  
24 at night. That affects you, my home life, okay?

1                   That affects my working style that I have  
2                   to -- where I work at, okay? Because you have to be  
3                   very bright and alert at what you're doing there, the  
4                   different kind of chemicals that we handle there. That  
5                   just is bad. It's really, really bad.

6                   Q.     Would you say that the sleep deprivation  
7                   places you or your coworkers in some additional danger?

8                   A.     Yes, it does. Not only my coworkers, but  
9                   also the patients of the hospital.

10                  Q.     And in what way?

11                  A.     In the different kind of chemicals that we  
12                  use, sir.

13                  Q.     Has the noise coming from the gun club  
14                  affected your use of your home?

15                  A.     Very much so. We used to have quite a few  
16                  people come out and visit us. We used to have  
17                  cookouts. We used to have card parties, and that just  
18                  don't exist.

19                  Q.     Why is that?

20                  A.     On account of the noise. They don't want  
21                  to come out there and sit and try to talk above the  
22                  noise. They don't want to sit there and play cards and  
23                  stuff.

24                  Q.     Has any one of your guests told you that?

1           A.    Yes.  Yes, they have.

2           Q.    Do you believe the noise coming from the  
3 gun club area has affected your health, your physical  
4 health?

5           A.    Yes.

6           Q.    In what way?

7           A.    Stress.

8           Q.    Stressed out?

9           A.    Yes.

10          Q.    Have you taken any medication to deal with  
11 stress?

12          A.    Yes.  I had taken some for a while, and  
13 then I finally got off of it.  My wife is still taking  
14 medicine.

15          Q.    I presume these medications were prescribed  
16 by a physician?

17          A.    Yes, they were.

18          Q.    Were you taking such medications prior to  
19 the gunfire breaking out --

20          A.    No, I was not.

21          Q.    -- at the gun club?

22          A.    No.  I'd never taken any medicine in my  
23 life.

24          Q.    You mentioned your wife a few moments ago.

1 Has the noise coming from the gun club affected your  
2 other family members' well-being?

3 A. Yes. It has not only affected, you know,  
4 myself. It has affected my wife.

5 It has affected our grandchildren when they  
6 would come out and they'd want to go fishing. And  
7 they'd start shooting over there. My grandsons would  
8 start crying, "Well, Grandpa, let's go in. I'm  
9 afraid." Any time I would get them in the house, the  
10 poor little old guys would be shaking.

11 Q. How old is he?

12 A. They were four and five years old. And  
13 then they would never come back and ask Grandpa if he  
14 could take them out fishing again.

15 Q. Do you go fishing now?

16 A. No, I do not, sir. I do not fish that lake  
17 no more, and I used to fish it constantly.

18 Q. Did you hear the rock music last Friday  
19 night?

20 A. Oh, yes. Wonderful, wonderful music.

21 Q. How did it affect you?

22 A. Well, I had went to work at 3 o'clock  
23 Friday morning. I went to bed at 8:30 Friday morning.  
24 At 9 o'clock, I was brought out of that bed like someone

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1 had a shotgun in my bedroom, because where our bedroom  
2 sits is next to this gun club, okay? And it woke me  
3 up. I thought, oh, my God, what is going on?

4 I called Mike. I said, "Okay, Michael.  
5 How long are we going to have to listen to this?" He  
6 said, "Well, they got a special permit until midnight."

7 Q. Do you recall what time of night it was  
8 when you spoke to Mr. Logsdon?

9 A. It was around 10 o'clock.

10 Q. 10 o'clock?

11 A. A little after 10:00. Very disturbing.

12 Q. Pardon? Very disturbing?

13 A. Very disturbing. Just ungodly loud. Our  
14 windows in our house were actually rattling from what  
15 they were doing. And the wife suggested that we go,  
16 lock the house, and go by and go get a hotel room for  
17 the night.

18 Q. Did you?

19 A. No, I did not.

20 Q. You thought about it, though, didn't you?

21 A. Pardon?

22 Q. You thought about it, though, didn't you?

23 A. Yes, I did. And if it happens tomorrow  
24 night, that's exactly what I will do.

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1 Q. Do you think it will happen tomorrow night?

2 A. Yes, I do.

3 Q. Why?

4 A. Because that's just how belligerent these  
5 people are. They don't care for anyone else but  
6 themselves.

7 Q. Have you ever talked to anyone from the gun  
8 club about reducing the noise level?

9 A. No, sir, I have not. I don't believe I  
10 could talk to them. I believe it would be more than  
11 talking.

12 Q. From your observations, have you ever seen  
13 them do anything to limit or reduce the amount of noise  
14 coming off their property?

15 A. No, sir, they have never. They have never  
16 done nothing whatsoever over there to reduce the sound  
17 of the noise.

18 MR. VAN NESS: I have no further questions.

19 HEARING OFFICER LANGHOFF: Thank you,  
20 Mr. Collins.

21 Mr. Van Ness, are you going to be calling  
22 Mr. Rahar?

23 MR. VAN NESS: I'm going to call

24 Mr. Binengar first.

146

KEEFE REPORTING COMPANY

1 HEARING OFFICER LANGHOFF: Okay,  
2 excellent.

3 MR. VAN NESS: And Complainants do call  
4 Mr. Binengar pursuant to his subpoena.

5 HEARING OFFICER LANGHOFF: And I note that  
6 Mr. Binengar is under subpoena. And Mr. Binengar was here  
7 this morning. And Mr. Binengar is the president of the  
8 gun club and left at approximately 11 o'clock and has  
9 not returned and is under subpoena.

10 MR. VAN NESS: We would move for any and  
11 all sanctions that the Court may deem appropriate.

12 HEARING OFFICER LANGHOFF: I can't give any  
13 sanctions, but I'm sure the record will be very clear  
14 that the complainants are asking for sanctions. And  
15 I'll give that for the board to decide.

16 MR. VAN NESS: I should like to make a  
17 statement at this time since Mr. Binengar's not  
18 appearing.

19 HEARING OFFICER LANGHOFF: Go ahead,  
20 Mr. Van Ness.

21 MR. VAN NESS: I'll keep it brief,  
22 Mr. Hearing Officer.



23 HEARING OFFICER LANGHOFF: Thank you.

24 MR. VAN NESS: We have heard time and time

147

KEEFE REPORTING COMPANY

1 again today how these complainants characterized the  
2 tactics of the complainant -- of the defendant or  
3 respondent, and in particular, Mr. Binengar. And I  
4 should submit to the board that Mr. Binengar's absence  
5 here is part and parcel and wholly consistent with his  
6 disdain for both the pollution control board and the  
7 rule of law in general.

8 Now, I will ask for a few minutes' time,  
9 Mr. Hearing Officer, in order to bring Mr. Brett Rahar  
10 to the stand.

11 HEARING OFFICER LANGHOFF: Thank you. And  
12 for the record, I'd like to echo Mr. Van Ness's  
13 painting, I guess, of Mr. Binengar's actions today, based  
14 on his actions during the hearing and prior to the  
15 hearing.

16 We're off the record for however long you  
17 need to get him.

18 MR. VAN NESS: Thank you.

19 [Brief break.]

20 HEARING OFFICER LANGHOFF: We're back on  
21 the record. I want the record to reflect that we've

22           been joined by Mr. Rahar. And also I'd like to have  
23           these gentlemen just state their appearance.

24                       MR. MARTIN: My name is David Martin,

148

KEEFE REPORTING COMPANY

1           Christian County State's Attorney. And this is Brett  
2           Hellinga, Assistant State's Attorney.

3                               [Witness sworn.]

4                       HEARING OFFICER LANGHOFF: Thank you.

5                               BRETT RAHAR

6           of lawful age, being produced, sworn and examined on  
7           the part of the Complainants, testifies and says:

8                               EXAMINATION

9           QUESTIONS BY MR. VAN NESS:

10                   Q.    Mr. Rahar, will you state your full name  
11           for the record please.

12                   A.    Brett Rahar.

13                   Q.    And what is your job title, sir?

14                   A.    Christian County zoning consultant.

15                   Q.    Thank you.

16                               I'm going to show you what's been marked  
17           Complainant's Exhibit Number 1, Mr. Hearing Officer.

18                               Do you recognize the area depicted on that  
19           map, sir?

20                   A.    Yes.

21 Q. Let me ask you, Mr. Rahar, whether the area  
22 that's shown there marked with the pink highlighter,  
23 whether you recognize that as the area where the  
24 Southfork Gun Club operations are in place?

149

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1 A. I would say, yeah, approximately. It might  
2 not be the best, but, yes.

3 Q. When was the first time you became aware of  
4 the gun club operation at that site?

5 A. The first time I was aware of that site?

6 Q. Yes, uh-huh.

7 A. I was probably in high school. I mean, as  
8 far as my official capacity, it would have been  
9 when -- I'm trying to think of the exact date. I don't  
10 have the exact date with me. But it's been there for a  
11 while.

12 Q. Three or four years, two or three years?

13 A. Probably three or four, I'd say now.

14 Q. Do you recall when the activity at the  
15 Southfork Gun Club site, the activity commenced?

16 A. Probably around that same time.

17 Q. '98, '99?

18 A. Somewhere in there.

19 Q. When did you first become aware of

20 complaints about noise coming from that area?

21 A. It would have been probably shortly  
22 thereafter, the first complaints would have been.

23 Q. Okay.

24 A. You can check with the sheriff's office.

150

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1 They're the ones that actually took a lot of the  
2 complaints to begin with.

3 Q. You did not take any complaints yourself?

4 A. I took complaints, but not -- --.

5 Q. Okay.

6 A. Not at the time that this was going on.

7 Q. Let's just talk about the ones that you  
8 took.

9 A. Okay.

10 Q. So you received some '98, '99?

11 A. Yes.

12 Q. What did you do about those?

13 A. Nothing, because the gun club, to my  
14 understanding, was under a special use at the time.  
15 And, you know, there's going to be noise involved with  
16 the trapshooting.

17 Q. Would you describe for the record the  
18 standard procedure your office uses for dealing with a

19 zoning ordinance violation.

20 A. Normally we send a letter of violation, and  
21 then they contact the office, and we go from there.

22 Q. And what do you do then?

23 A. Either correct the problem or turn it over  
24 to the state's attorney.

151

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1 Q. When you get a letter from a complainant  
2 then, do you investigate?

3 A. Yes. I mean, yeah, we investigate it.

4 Q. That involves going out to the site?

5 A. Yes.

6 Q. And then if you find a violation, then what  
7 do you do?

8 A. Talk to the state's attorney on how we're  
9 going to handle the violation as far as whether we're  
10 going to take them to court or whatever needs to be  
11 done.

12 Q. I'm sorry. I don't mean to interrupt you.

13 A. No, that's okay.

14 Q. In this case, did you seek legal advice  
15 about whether the county could enforce the ordinance  
16 against the gun club?

17 A. Yes. I mean, I sought advice back when

18 they started back up from the state's attorney at the  
19 time.

20 Q. And the state's attorney at that time was  
21 the one who told you that they were permitted?

22 A. Yes. I mean, the special use was still in  
23 place.

24 Q. So did you ever actually go out to the site

152

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1 and investigate the noise?

2 A. No. The sheriff's office had went out  
3 there numerous times, and I'd talked to the deputies  
4 involved and the sheriff.

5 Q. But never you?

6 A. No. They never -- my office is open from  
7 8:00 to 4:00, and most of the complaints on noise were  
8 10:00 and after to my knowledge. I mean, that's when  
9 most of the noise complaints were coming in.

10 Q. Now, are you aware that the injunction had  
11 been issued in the case involving the gun club?

12 A. Uh-huh.

13 HEARING OFFICER LANGHOFF: Could you answer  
14 out loud for the court reporter, Mr. Rahar?

15 THE WITNESS: Yes.

16 HEARING OFFICER LANGHOFF: Thank you.

17 Q. (By Mr. Van Ness) Do you understand that  
18 the court order indicates that the 1968 attempt to  
19 rezone the property was in fact void?

20 A. No.

21 Q. Do you have an opinion as to whether any  
22 residential property currently lies within 1,320 feet --

23 A. Yes.

24 Q. -- of the gun club?

153

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1 A. Yes, they do.

2 Q. They do?

3 A. I'd say so from the map.

4 Q. Are you aware that the president of the  
5 Southfork Gun Club is a member of the county board?

6 A. Yes.

7 Q. Have you ever discussed the gun club with  
8 that gentleman?

9 A. Back when he first started back up, yes.

10 Q. And he first started back up again in?

11 A. '98, '99, somewhere around in there.

12 Q. Are you aware of any proposal by the gun  
13 club or the village to actually mitigate noise pollution  
14 on the site?

15 A. No.

16 Q. I'm sorry?

17 A. Not to my knowledge.

18 Q. If they were to propose to erect a barrier  
19 or put up a berm or construct a building or anything of  
20 that sort, would they have to come to your office for a  
21 permit?

22 A. For building, yes; a berm, no.

23 Q. There is a building on that property now;  
24 is that correct?

154

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1 A. Yes.

2 Q. And did they obtain a permit from you for  
3 that building?

4 A. Yes.

5 Q. When did they apply for that?

6 A. I'd have to look at the records. I don't  
7 have it with me when they built it. I don't think it's  
8 in the file.

9 Q. All right.

10 A. I don't think I threw anything extra in  
11 here, other than that was there. No.

12 Q. Do you have the file with you?

13 A. Yes, from the Southfork Gun Club.

14 Q. Yeah, thank you.



15 A. You should have that also.

16 Q. Yes.

17 A. The permit from the --

18 MR. VAN NESS: For the record, Mr. Hearing  
19 Officer, referring to the fact that during discovery, we  
20 did do a discovery deposition of Mr. Rahar. They did  
21 provide several documents out of the file.

22 Q. And I believe at the time,  
23 that was all the documents that were in the file?

24 A. Yes, that was everything.

155

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1 HEARING OFFICER LANGHOFF: Thank you. It's  
2 noted.

3 Q. (By Mr. Van Ness) Are you aware of  
4 recurring efforts by the county to have the gun club  
5 property rezoned again now?

6 A. It's not by the county. It's by the gun  
7 club. They sent the letter, I think, to Mr. Martin.

8 Q. Mr. Martin would be the state's attorney?

9 A. Yes.

10 Q. I see.

11 A. And we had a zoning committee meeting on  
12 that. And I believe they're trying to get an opinion on  
13 whether what they were asking is even legal. That's it,

14 the last I knew.

15 Q. And that's all you know, right?

16 A. Yeah. I mean --

17 Q. Have you received any noise complaints  
18 about the gun club within the last week?

19 A. Me personally? No.

20 Q. Do you know if anyone else has?

21 A. Not to my knowledge. I mean, like I said,  
22 the sheriff's office is the one who gets most of the  
23 complaints. That's who you'd need to talk to if there's  
24 been anything there.

156

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1 Q. Okay. I take it, that the gun club  
2 property is properly within the Village of Kincaid?

3 A. No. It's not in the village. It's on  
4 village owned property. It's not in the village limits.

5 Q. If I were to conduct a rock concert or some  
6 other activity emitting a considerable amount of noise,  
7 would I come to -- at that property, I'm talking about  
8 the gun club property -- would I come to your office for  
9 a permit or would I go to the Village of Kincaid?

10 A. There is no such permit in the county for  
11 rock concerts or anything else of that nature that I've  
12 ever known of.

13 Q. I see. If I wanted to have a rock concert  
14 in my back yard, I can do so?

15 A. In the county, there's no permit that I'm  
16 aware of that would stop you, or you'd have to obtain  
17 it. That's to my knowledge. I mean, I'm not saying  
18 that there's something through the county clerk or some  
19 other office, but not through mine.

20 Q. Does your office issue permits?

21 A. Building permits.

22 Q. Just building permits?

23 A. Special use is issued through a hearing  
24 process, that type of stuff, but, yeah, that's it.

157

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1 Q. Do you agree that a skeet or trapshoot  
2 activity, a special use for skeet or trapshooting  
3 activity must have a 1,320 foot setback?

4 A. That's what our ordinance reads.

5 MR. VAN NESS: No further questions.

6 HEARING OFFICER LANGHOFF: Thank you.

7 And, Mr. Rahar, since you don't have  
8 another attorney to rehabilitate you, if it was needed,  
9 but I'll let you testify if you think you need to add  
10 anything at all.

11 THE WITNESS: None.

12 HEARING OFFICER LANGHOFF: Okay. Thank  
13 you, Mr. Rahar.

14 MR. VAN NESS: Thank you.

15 HEARING OFFICER LANGHOFF: Thank you,  
16 Gentlemen.

17 MR. MARTIN: Thank you.

18 HEARING OFFICER LANGHOFF: Mr. Van Ness,  
19 any further witnesses?

20 MR. VAN NESS: No, Mr. Hearing Officer.

21 At this time, Complainants conclude their  
22 case and are prepared to make a final statement.

23 HEARING OFFICER LANGHOFF: If you want to  
24 make that now, you --

158

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1 MR. VAN NESS: Yes.

2 HEARING OFFICER LANGHOFF: Okay. I'll open  
3 it up for you to make a closing argument.

4 MR. VAN NESS: I'll make it very brief.  
5 Thank you, Mr. Hearing Officer.

6 HEARING OFFICER LANGHOFF: Thank you.

7 MR. VAN NESS: We believe that the record  
8 today, as we indicated it would this morning, fully  
9 confirms that the situation in Christian County with  
10 respect to Southfork Gun Club is as bad as we say it

11 is. That is to say, that the Southfork Gun Club has  
12 exhibited no interest, has expended no funds and has no  
13 intention to comply with the noise laws, and has given  
14 to the contrary every reason to believe that they will  
15 do the opposite.

16 We fully expect that there will be a rock  
17 concert tomorrow and Friday after that and the Friday  
18 after that. If they do not, we'll all be shocked.

19 But the fact of the matter remains that as  
20 we speak, as Mr. Rahar just noted, there is an effort  
21 underway by the gun club with the collaboration of the  
22 county to see to undo by special legislation what has  
23 been accomplished by the Court's permanent injunction.  
24 That is to say, they intend to go back and draw a

159

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1 regulation or an ordinance amendment so narrow as to  
2 affect only a single piece of property, and solely for  
3 the purpose of allowing gunshot and noise to continue as  
4 it has in the past without further interference from the  
5 pollution control board or anyone else.

6 You've also seen that there are persons  
7 among the complainants who are intimidated and who are  
8 very reluctant to come forward because of what they  
9 believe to be bullying tactics by the gun club, such as

10 the rock concert music and blatant disregard of these  
11 people's rights and quiet enjoyment of their homes.

12 I ask the pollution control board again to  
13 impose a substantial monetary penalty, to construct a  
14 very specific and enforceable cease and desist order  
15 that will give these people the quiet enjoyment of their  
16 homes back. This is what the law says they are entitled  
17 to, and this is what the board is obligated to provide.

18 Nothing further.

19 HEARING OFFICER LANGHOFF: Okay. Thank  
20 you, Mr. Van Ness.

21 Before we conclude, I do want to make sure  
22 that I have all the exhibits. We've gone over it once.  
23 I have admitted Exhibits 1 through 13, with the  
24 exception of --

160

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1 MR. VAN NESS: 9 and 11.

2 HEARING OFFICER LANGHOFF: 9 and 11, and  
3 that's correct?

4 MR. VAN NESS: I believe that is correct.  
5 I did have a couple of exhibits that I was going to use  
6 potentially with Mr. Binegar, but since he's not here,  
7 that is probably not necessary. I don't think I need to  
8 ask to have them necessarily put in.

9 HEARING OFFICER LANGHOFF: At this time,  
10 I'd like to read into the record the results of our  
11 off-the-record discussion concerning the filing of  
12 briefs in this matter.

13 The transcript of these proceedings will be  
14 available from the court reporter by October 9, 2002. I  
15 will establish a public comment period of 14 days. The  
16 complainant's brief will be due by October 31, 2002, and  
17 the Mailbox Rule will apply.

18 MR. VAN NESS: October 31st?

19 HEARING OFFICER LANGHOFF: Yes.

20 MR. VAN NESS: Thank you.

21 HEARING OFFICER LANGHOFF: The respondent's  
22 brief, if any, will be filed -- must be filed by  
23 November 21, 2002, and the Mailbox Rule will apply.

24 The transcript of these proceedings is

161

KEEFE REPORTING COMPANY

1 usually put on the board's web site within the day of  
2 its availability.

3 Just, I'd just like to note briefly that  
4 our web site address is [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

5 All post-hearing comments must be filed in  
6 accordance with section 11.628 of the board's procedural  
7 rules.

8                           Public comments must be filed by October  
9                           10, 2002.

10                           The Mailbox Rule is set forth at  
11                           35 Illinois Administrative Code 101.102D and 101.144C  
12                           and will apply to any post-hearing filings.

13                           Is there anything further from the parties  
14                           before we conclude?

15                           MR. VAN NESS: No. Mr. Hearing Officer, on  
16                           the off chance that the respondents do in fact file a  
17                           brief, the complainants would request seven days in  
18                           which to reply.

19                           HEARING OFFICER LANGHOFF: I'll give you  
20                           seven days to file a reply.

21                           MR. VAN NESS: A reply.

22                           HEARING OFFICER LANGHOFF: If they do file  
23                           from the date of their filings.

24                           MR. VAN NESS: Right, right.

162

KEEFE REPORTING COMPANY

1                           HEARING OFFICER LANGHOFF: At this time, I  
2                           want to note that there are no members of the public  
3                           present that want to make any statements on the record.

4                           I am required to make a statement as to the  
5                           credibility of the witnesses who testified during this  
6                           hearing. This statement is to be based on my legal



7 judgment and experience.

8 And, accordingly, I state that I found all  
9 of the witnesses testifying to be extremely credible  
10 today. Credibility is not an issue for the board to  
11 consider in rendering a decision in this case.

12 At this time, I will conclude the  
13 proceedings. It is Thursday, September 26, 2002 at  
14 approximately 2:20 in the afternoon. And we stand  
15 adjourned. I thank everyone for your participation, and  
16 I wish everyone to have a good day.

17 [End of hearing.]

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163

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COURT REPORTER'S CERTIFICATION

2

3 I, Ann Marie Hollo, Certified Shorthand  
4 Reporter, Registered Professional Reporter, Registered  
5 Merit Reporter of the State of Illinois and Notary  
Public, do hereby certify that said hearing before the  
Illinois Pollution Control Board and Illinois Pollution  
Control Board Hearing Officer Steven C. Langhoff, took

6 place on the 26th day of September A.D., 2002, and held  
at the Christian County Courthouse, 2nd Floor,  
Taylorville, Illinois.

7

8 I do hereby certify that I did take  
stenographic notes of the proceedings and that said  
notes were reduced to typewritten form under my  
9 direction and supervision.

10 I do further certify that the attached and  
foregoing is a true, correct and complete copy of my  
11 notes and that said testimony is now herewith returned.

12 I do further certify that I am not related  
in any way to any of the parties involved in this action  
13 and have no interest in the outcome thereof.

14 Dated at Litchfield, Illinois, this 29th  
day of September, A.D. 2002 and given under my hand and  
15 seal. My commission expires April 5, 2006.

16

\_\_\_\_\_  
Ann Marie Hollo, CSR, RPR, RMR

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