

ILLINOIS POLLUTION CONTROL BOARD
November 20, 2003

STEPHEN G. BRILL,)
)
 Complainant,)
)
 v.)
) PCB 00-219
 HENRY LATORIA, individually and doing) (Citizens Enforcement - Noise)
 business as T.L. TRUCKING FOODLINER,)
)
 Respondent.)

SUPPLEMENTAL OPINION AND ORDER OF THE BOARD (by N.J. Melas):

On November 3, 2003, respondents filed a motion to extend the deadline to comply with the Board's August 7, 2003 opinion and order in this matter. Today's order grants the respondents' motion and allows the respondents until December 12, 2003, to comply with paragraph 4(a) of the Board's final opinion and order.

Stephen G. Brill brought this citizen's noise enforcement action against Henry Latoria, individually and doing business as T.L. Trucking Foodliner (TL Trucking). TL Trucking is a truck washing facility located at 9200 King Street in Franklin Park, Cook County.

On June 6, 2002, the Board issued an interim opinion and order (Int. Op.) finding that TL Trucking caused nuisance noise and air pollution by emitting dust and diesel exhaust fumes in violation of Sections 9(a) and 24 of the Environmental Protection Act (Act) (415 ILCS 5/9(a) and 24 (2002)), and the Board's nuisance noise regulations (35 Ill. Adm. Code 900.102). On August 7, 2003, the Board ordered TL Trucking to make physical changes to its wash bays and implement operational changes at the TL Trucking facility as detailed in the final opinion and order. On November 3, 2003, TL Trucking filed a motion for extension of time to comply with the Board's August 7, 2003 opinion and order. To date Mr. Brill has not responded to the motion.

TL Trucking states it has completed all of the ordered remedies save one. TL Trucking asserts it has not yet installed an interlock on all washing and drying equipment to prevent the equipment from operating while doors are open in accordance with paragraph 4(a) of the Board's final opinion and order. TL Trucking states it has hired an expert, Patrick Lynch of Applied Mechanical Technology, LLC, to install the interlock device. TL Trucking attached a letter from Mr. Lynch to the motion for extension of time stating that Applied Mechanical Technology, LLC could install and test the interlock device by December 12, 2003. TL Trucking requests until December 12, 2003, to complete installation of the interlock door system.

TL Trucking has hired an expert to install the interlock device. TL Trucking's expert asserts that delays due to ordering parts, installation, and testing will require until December 12, 2003. The Board grants TL Trucking's motion for extension of time.

For the parties' convenience, the Board sets forth the final order and opinion, as amended today, in its entirety. This supplemental opinion constitutes the Board's supplemental findings of fact and conclusions of law.

ORDER

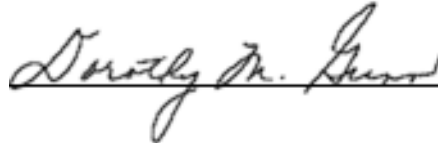
1. The Board incorporates its June 6, 2002 interim opinion and order in this proceeding, as if fully set forth. That order finds that Henry Latoria, individually and doing business as T.L. Trucking Foodliner (TL Trucking), caused nuisance noise and air pollution in violation of 415 ILCS 5/9(a) and 24 (2002) and 35 Ill. Adm. Code 900.102.
2. TL Trucking must cease and desist from any further violations of 415 ILCS 5/9(a) and 24 (2002) and 35 Ill. Adm. Code 900.102.
3. This order applies to the TL Trucking facility located at 9200 King Street in Franklin Park, Cook County.
4. TL Trucking must make the following physical modifications to its wash bays within 90 days of receipt of the Board's August 7, 2003 order:
 - a. Install a masonry wall between bays 2 and 3;
 - b. Install an exhaust fan system in each bay, mounting the inlet and exhaust on the vertical wall facing south; and
 - c. Relocate dryer pumps further inside wash bays between wash bays 2 and 3.
5. By December 12, 2003, TL Trucking must install an interlock on all washing and drying equipment at the facility so the equipment cannot operate while the doors are open.
6. TL Trucking must implement the following operational changes at the facility within 40 days of receipt of the Board's August 7, 2003 order:
 - a. Keep bay doors shut during the entire wash process;
 - b. Keep bay doors shut whenever hatch bolts hit the trailer body inside wash bays;
 - c. Remove any ice buildup at the base of the overhead wash bay doors during cold weather;

- d. Enforce the prohibition on horn blowing except during emergency situations;
- e. Enforce the speed limit of 5 miles per hour on the TL Trucking property;
- f. Enforce the prohibition on idling for more than 15 continuous minutes on the TL Trucking property; and
- g. Maintain all paved surfaces on the TL Trucking property in good condition.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2002); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above supplemental opinion and order on November 20, 2003, by a vote of 4-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board