

David and Jacquelyn McDonough, )  
 )  
Complainants, )  
 )  
vs. ) PCB No. 00-163  
 ) (Citizens Enforcement – Noise)  
Gary Robke, )  
 )  
Respondent )

**RESPONDENT'S MOTION TO EXTEND THE STAY**

Comes now respondent, Gary Robke, by and through his attorney, Stephen R. Wigginton, of Weilmuenster & Wigginton, P.C., and pursuant to the Opinion and Order of the Board dated September 4, 2003, hereby files his Motion to Extend the Stay beyond March 1, 2004 and in support thereof states as follows:

1. On February 6, 2003, the Illinois Pollution Control Board issued an Order finding that remedial action including the construction of a noise wall be constructed on the southern and western property line of the car wash operated by respondent. The noise wall was required to be 12 foot high consisting of a 6-foot high berm topped with a 6-foot high fence constructed of solid material. Respondent was given 180 days to construct the wall.

2. On September 4, 2003, the Board entered an Order staying its February 6, 2003 Order until March 1, 2004 because the City of Mascoutah would not allow the noise wall to be constructed on the southern and western property line of respondent's car wash because of the existence of publicly owned underground utilities.

3. Since the imposition of the stay the parties have worked in good faith to resolve the dispute regarding the location of the noise wall. In that regard, the parties

have met with the City of Mascoutah and obtained a proposal from the engineers for the City of Mascoutah regarding the relocation of the noise wall.

4. On December 14, 2003, the parties received a copy of the City of Mascoutah's proposed relocation of the noise wall. Since that time the respondent has been in discussions with the City and its engineers regarding questions and proposed modifications to the proposed relocation of the noise wall. The City of Mascoutah's engineering report proposed a noise wall consisting of a 28-foot wide earthen berm base, 6 feet high with a 6-foot fence on top. In addition to the 28-foot wide base, there would be an additional 4 feet on each side of the base for a project totaling 36 foot wide at its base. This proposal by the City's engineer would cover approximately all of the remaining ground owned by respondents. This ground was identified years ago in the respondent's initial building plans as area for future expansion.

5. The respondent has had discussions with the City of Mascoutah regarding the possibility of; 1) modifying the engineering proposal; 2) having the City of Mascoutah purchase additional ground to widen its easement and take over the berm; 3) obtain financial assistance from the City of Mascoutah in the form of a tax abatement or direct financing to assist in the cost of this project.

6. The City of Mascoutah has recently suggested that respondent should submit its concerns, comments or revisions in writing to the City for further consideration.

7. In the interim, respondent has disarmed the beepers and replaced the motors in the vacuums with quieter motors as directed by the Board's Order and has

taken other steps to mitigate the noise emitting from its operations. The respondent has also participated in good faith in all of the status conferences held by the hearing officer.

WHEREFORE, based upon the foregoing, respondent, Gary Robke, respectfully requests that the stay be extended for an additional 180 days in order to allow the parties to finalize a proposed resolution to this matter.

Respectfully submitted,

WEILMUNSTER & WIGGINTON, P.C.

BY: 

Stephen R. Wigginton

ATTORNEY FOR RESPONDENT  
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**PROOF OF SERVICE**

The undersigned certifies that on the 20 day of February, 2004, a copy of the foregoing pleading was served upon the following attorney(s) of record and interested parties to the above cause by the method indicated below:

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- U.S. Mail
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