

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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SEP 07 2004

STATE OF ILLINOIS
Pollution Control Board

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

COMPLAINANTS MOTION TO APPLY SANCTIONS

BACKGROUND

1. On February 6, 2003, The Illinois Pollution Control Board issued an Order for respondent to construct a noise wall between respondent car wash and complainants property. The noise wall, in the form of a fence on top of dirt berm, structure was to be completed in 180 days and run continuously on the southern and western property line of the car wash. The order allowed that if respondent encountered insurmountable difficulties with the City of Mascoutah during construction of the noise wall that respondent could attempt to modify the Board order as required. Order at 4.
2. Subsequent to the Order, the City of Mascoutah, in a letter to Mr. Wigginton on June 16, 2003, indicated that underground utilities and electrical pedestals in the area could prohibit construction of the noise wall in the location ordered by the Board. In that letter, the City indicated a willingness to work with all parties to find a solution.
3. On August 10, 2003, the complainants, the respondent and his partner, and Mr. Wigginton met with the City manager to discuss options. The City agreed to develop a plan for constructing the noise barrier to minimize interference with the City's utilities.
4. On September 4, 2003, the Board ordered a stay on construction of the noise wall until March 1, 2004, pending resolution of construction issues with City of Mascoutah.
5. On December 14, 2003, the City of Mascoutah proposed an approved plan for the noise wall. The City's plan requires construction of the noise wall in the general location previously requested by the complainants.
6. On April 15, 2004, the Board ordered a stay on construction of the noise wall until September 1, 2004, believing that the respondents were making a good faith effort to resolve the matter

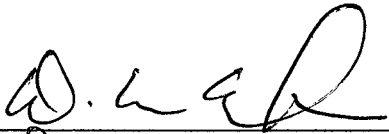
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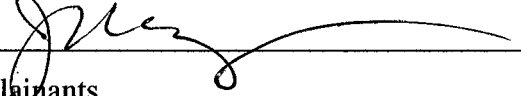
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MOTION

As of today's date, September 4, 2004, there is no construction started at the car wash. We feel that due to respondent's foot dragging there have been unnecessary delays. The respondents are in violation of the Board's order and we ask that the Board apply sanctions on the car wash as an incentive to take this matter seriously. Both sides have made concessions and the final plan was agreed to months ago.





Complainants

David McDonough

Jacquelyn McDonough

751 North Jefferson
Mascoutah, IL 62258
(618) 566-8065

PROOF OF SERVICE

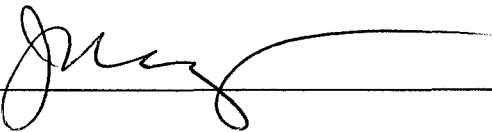
The undersigned certifies that on the 4th day of Sept., 2004, a copy of the foregoing pleading was served upon the following attorney(s) of record and interested parties to the above cause by the method indicated below:

Stephen R. Wigginton
3201 West Main Street
Belleville, IL 62226

Dorothy M. Gunn
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Ste. 11-500
Chicago, IL 60601

Carol Sudman
Hearing Officer
Illinois Pollution Control Board
600 South Second Street, Suite 402
Springfield, IL 62704

- U.S. Mail
- Personal Delivery
- Facsimile
- Overnight Courier



A handwritten signature in black ink is written over a horizontal line. The signature is cursive and appears to be the name of the undersigned attorney.