

ILLINOIS POLLUTION CONTROL BOARD

January 4, 2007

VINCENT and JENNIFER NERI,)	
)	
Complainants,)	
)	
v.)	PCB 05-213
)	(Citizens Enforcement – Noise)
TNT LOGISTICS NORTH AMERICA INC.,)	
)	
Respondent.)	

HEARING OFFICER ORDER

On December 14, 2006, all parties, including the parties in the related PCB 05-212, PCB 05-216, and PCB 05-217 matters, participated in a telephonic status conference with the hearing officer. The complainants made an oral motion to cancel the hearing previously scheduled for December 18, 19, and 20, 2006. Complainants represented that they recently became aware that their complaint, filed June 17, 2005, only alleged a numeric noise violation under the Board's numeric noise regulations: Section 901.102; Section 901.103; Section 901.104; and Section 901.106. Complainants represented that their intention then and now was that they wanted to include a Section 900.102 nuisance violation in their complaint. Complainants argued that to proceed with the previously scheduled hearing would be a waste of time and resources. Complainants filed a written motion to cancel on December 14, 2006, reflecting the same concerns.

Respondent objected to the motion to cancel the hearing and represented that it was ready to proceed to hearing.

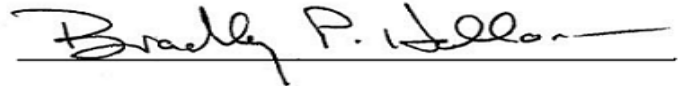
The complainants were made aware of their omission as early as September 1, 2005, where the Board's order clearly set forth the alleged violation. Additionally, the complainants were informed and reminded by the hearing officer a plethora of times during the numerous telephonic status conferences that their complaint only alleged a numeric noise violation.

Nevertheless, the complainants' motion was granted and the hearing was cancelled. The hearing officer found that the complainants could possibly be materially prejudiced if the hearing was to go forward and that in the interests of administrative efficiency, the hearing must be cancelled.

The complainants were directed to file leave to file an amended complaint and the amended complaint on or before January 5, 2007. Respondent to timely file its response. of PCB 05-212.

The parties or their legal representatives are directed to participate in a telephonic pre-hearing conference with the hearing officer on February 1, 2007, at 12:00 p.m. The telephonic status conference must be initiated by the complainants, but each party is nonetheless responsible for their own appearance. At the status conference, the parties must be prepared to discuss the status of the above-captioned matter and their readiness for hearing.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Bradley P. Halloran" with a horizontal line underneath it.

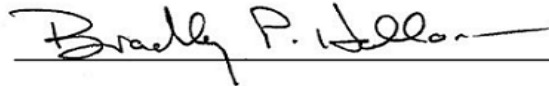
Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, Illinois 60601
312.814.8917

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on January 4, 2007, to each of the persons on the attached service list.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on January 4, 2007:

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

A handwritten signature in black ink, reading "Bradley P. Halloran", is written over a horizontal line.

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
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