

Milton and Virginia Kamholz
1306 Sullivan Road
Woodstock, Illinois 60098
Phone: (815) 568 6166

ORIGINAL

RECEIVED
CLERK'S OFFICE
MAY 16 2002
STATE OF ILLINOIS
Pollution Control Board

May 15, 2002

BY CERTIFIED MAIL
RETURN REQUESTED

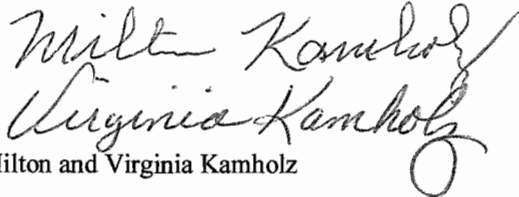
Illinois Pollution Control Board
Attention: Clerk of the Board
James R Thompson Center, Suite 11-500
100 W Randolph Street
Chicago, Illinois 60601

Re: PCB 02-41 Kamholz v.. Sporleder

Dear Clerk of the Board,

Enclosed, please find a Notice of Filing, for a Motion To Compel for answers to Complainant's Interrogatories from the Respondents Lawrence and Mariann Sporleder. This is filed by the Complainants, Milton and Virginia Kamholz, and directed to Hearing Officer Bradley Halloran. Proof of Service is also enclosed. Please find one original of the Motion, along with four copies, as stated in Section 101.302 (h) (1) of the Pollution Control Board's Procedural Rules.

Sincerely yours,


Milton and Virginia Kamholz

Milton and Virginia Kamholz
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Woodstock, Illinois 60098
(815) 568 6166

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STATE OF ILLINOIS
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD

MILTON and VIRGINIA KAMHOLZ)
)
 Complainants)
)
 v.)
)
 LAWRENCE and MARIANN SPORLEDER)
)
 Respondents)

PCB 02-41
(Citizen's Enforcement case Air, Noise)

NOTICE OF FILING

To: The Clerk of the Board
Illinois Pollution Control Board
100 W. Randolph Street
James R Thompson Center
Suite 11-500
Chicago, Illinois 60601

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

Joseph Gottemoller, attorney for the Respondents
One North Virginia Street
Crystal Lake, Illinois 60014

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board, a Motion to Compel, for the Respondent's, Lawrence an Mariann Sporleder "Request to Produce" and for the "Interrogatories To Be Answered By The Respondents". This filing is being issued by the Complainants, Milton and Virginia Kamholz, and is directed to Hearing Officer Brad Halloran. A copy is herewith served upon you.

Milton Kamholz / Virginia Kamholz
Milton and Virginia Kamholz, Complainants

May 15, 2002

Milton and Virginia Kamholz
1306 Sullivan Road
Woodstock, Illinois 60098

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
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PCB 02-41
(Citizen's Enforcement - Air, Noise)

MOTION TO COMPEL, FOR RESPONDENTS ANSWERS TO COMPLAINANTS REQUEST TO PRODUCE

Complainant's Milton and Virginia Kamholz, come before you with a MOTION TO COMPEL for Respondents Lawrence and Mariann Sporleder's response to Complainant's Request to Produce, pursuant to the Boards Procedural Rules, Subart F, Sec. 101.614 regarding "Production of Information," and Sec. 101.616 (h) regarding "Discovery.

Question # 1

Regarding question and answer to #1 of The Request to Produce, Complainants accept the Respondents response, however there is a concern that nothing was presented at this time, regarding previously known information. Respondents should take this opportunity to respond at this time, if possible.

Question # 2

Again, the response raises concern regarding the lack of response for previously known evidence. The Complainants do not understand the response, "Investigation continues." Some previously known evidence or information regarding this, was due on May 3rd. We understand and respect that Duty to seasonably supplement applies. This motion to compel, gives them an opportunity to respond differently if they'd like to.

Based on the fact that nothing was presented, we request that you consider and record Complaint's concerns, and motion to compel if possible to do so. Complainants are not seeking sanctions, just timely information.

Respectfully submitted,

Milton and Virginia Kamholz
1306 Sullivan Road
Woodstock, Illinois 60098
(815) 568 6166

Milton Kamholz
Virginia Kamholz
Milton and Virginia Kamholz

MAY 16 2002

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
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MOTION TO COMPEL ANSWERS TO INTERROGATORIES

Complainants Milton and Virginia Kamholz bring before you a motion to compel answers to the complaint's interrogatories pursuant to the Board's Procedural Rules, Subpart F, Section 101.616 (a) (b) (d) (e) (g) and (h). Following are the reasons for this request.

Interrogatory # 1.: Insufficient response. The question asks for names and addresses . Please use this opportunity to answer the question.

Interrogatory # 2: Incomplete answer: Respondents should use this opportunity to amend their response. Section 101.616 (h) of the Boards Procedural Rules.

Interrogatory # 3: Evasive answer. Please answer (a)

Interrogatory # 4. Insufficient, evasive response. The question states the fact that it's a rule you've imposed. The question asks why?

Interrogatory # 5 OK

Interrogatory # 6 OK

Interrogatory # 7 Incorrect information. Respondents should use this opportunity to amend this answer.

Interrogatory # 8 Unresponsive : Complainants do not understand why, or agree to, the reasoning that this question is beyond the scope of permissible questions . Pursuant to Subpart F, Sec. 101.616 (a) and (b) the question's answer will support the complainant's claims of frequent and continuous , riding, and is relevant to the case. The question does not ask for any private or damaging personal information. It's no secret to anyone that the boys live there. "Living there, as opposed to visiting, makes a huge difference in the riding patterns. Complainants request that this question be answered. **PLEASE NOTE: I WILL CHANGE THIS QUESTION TO READ: Has your grandson Kelly, ever had occasion to live with you in your home, over the past 10 years? Yes or No?**

Interrogatory # 9 OK

Interrogatory # 10 This answer is incomplete. Complainants accept it as is.

Interrogatory # 11 Answer accepted.

Interrogatory # 12 Insufficient and incorrect answer. Evasive. Please read and answer. Complainants know when you responded, they ask why you didn't respond to earlier attempts to deliver.

Interrogatory # 13 Unresponsive answer. Complainants do not understand why, or agree with your reason as to why this question is beyond the scope of permissible questions. Sec. 101.616 (a) and (b) Complainant requests an answer to this question. It's not a privacy matter. It's big, and every one can see it, including any prospective buyer of our property. It's 107 feet from the dividing property line. Your intent is important to us, and to our lives. We are retired, and want to make plans. Complainant Milton will be 67 years old this June, and he would like to know if you intend to have a dirt bike track of this magnitude on your property. This information is also Virginia. This information is relevant to the case and this question deserves an answer. On what grounds would a question like this be protected from an answer? Please respond.

Interrogatory # 14 OK

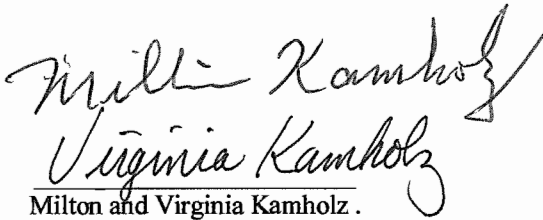
Interrogatory # 15 OK

Interrogatory #16 If you do supplement, Complainants would appreciate addresses.

Interrogatory # 17 OK

. This motion to compel answers to interrogatories is respectfully submitted on May 15, 2002. Complainants do not seek sanctions , just timely answers and information.

Sincerely


Milton and Virginia Kamholz .

Milton and Virginia Kamholz
1306 Sullivan Road
Woodstock, Illinois 60098
(815) 568 6166

VERIFICATION BY CERTIFICATION

Under penalties as provided by law pursuant to Section 109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true, correct, and complete, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

Milton Kamholz
Milton Kamholz

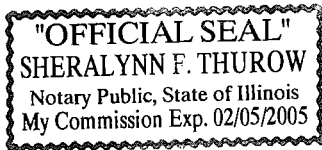
Virginia Kamholz
Virginia Kamholz

SUBSCRIBED AND SWORN TO

Before me this 15th day of

May, 2002.

Sheralynn F. Thuron
Notary public



MAY 16 2002

MILTON C. and VIRGINIA L. KAMHOLZ)
)
Complainants)
)
v.)
)
LAWRENCE and MARIANE SPORLEDER)
)
Respondents)
)

STATE OF ILLINOIS
Pollution Control Board

PCB 02-41
(Citizens Enforcement – Air, Noise)

RESPONDENTS' ANSWERS TO COMPLAINANTS' REQUEST TO PRODUCE

Now come the Respondents, LAWRENCE and MARIANE SPORLEDER, and in answer to Complainants' Request to Produce, provide the following:

1. With regard to the motorized vehicles that have been ridden, and or operated, on your property from within 70 to 160 feet of the complainant's residence, during the past 10 years, please provide documentation relating to, and confirmation of, factory installed mufflers for each vehicle.

ANSWER:

Respondents are not in possession of any documentation relating to, and confirmation of, factory installed mufflers for each vehicle. Respondents reserve the right to supplement their answer.

2. Please provide any documentation, which will form the basis of your denials of complainant's allegations of air and noise pollution violations.

ANSWER: Investigation continues.

VERIFICATION BY CERTIFICATION

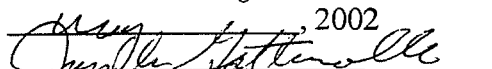
Under penalties as provided by law pursuant to Section 109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true, correct, and complete, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.


LAWRENCE SPORLEDER


MARIANE SPORLEDER

SUBSCRIBED AND SWORN TO

before me this 6 day of

June, 2002

Notary Public

MADSEN, SUGDEN & GOTTEMOLLER
Attorneys for Respondents
One North Virginia Street
Crystal Lake, IL 60014
(815)459-5152

RECEIVED
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MAY 16 2002

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MILTON C. and VIRGINIA L. KAMHOLZ)
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Complainants)
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v.)
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LAWRENCE and MARIANE SPORLEDER)
)
Respondents)
)

PCB 02-41
(Citizens Enforcement – Air, Noise)

RESPONDENTS' ANSWERS TO COMPLAINANTS' INTERROGATORIES

Now come the Respondents, LAWRENCE and MARIANE SPORLEDER, and in answer to Complainants' Request to Produce, provide the following:

- (1) Please give the names and addresses of the people who have ridden or operated a motorized vehicle on your property during the past 10 years within a range of 70 to 160 feet of the complainant's residence.

ANSWER: Friends of family and family including Lawrence and Mariann Sporleder. We cut grass up by the fence line and use the ATV to water the evergreens that we planted.

- (2) Please give the following information about all of the motorized vehicles, on or off road, that have been operated on your property within the range of 70 to 160 feet of the complainants' residence, during the past 10 years.

- (a) The model of the vehicle
- (b) The manufacturer of the vehicle
- (c) The year of the vehicle
- (d) The engine size of the vehicle
- (e) The engine type (2 cycle or 4 cycle)

ANSWER: 1996 Kawasaki – KX250-2cycle
1993 Polaris –350 Trail Boss-2cycle
1993 Suzuki-RM 250-2 cycle
Two 4 cycle go-karts

Respondents reserve the right to supplement their answer.

(3) Please state which vehicles are, or were, equipped with

- (a) factory installed muffler
- (b) a spark arrester

ANSWER: All vehicles have standard factory equipment. A spark arrester is not required for the type of riding the vehicles were used for.

(4) Please state why, since the year 2000, do you only allow the operation of the motorized vehicles to take place between the daytime hours of 10 am and 8 pm?

ANSWER: The time frame was a rule we imposed on the riders.

(5) During the past 10 years, have you ever had a designated area on your property that was of a certain oval or round shape, free of sod, and used specifically for the purpose of riding recreational vehicles on it?

ANSWER: Yes.

(6) During the past 10 years, were you ever made aware of, and asked to address a noise problem that was being caused by the operation of a motorized vehicle on your property?

ANSWER: Yes

(7) During the past 10 years, has the complainant, any member of the complainants' family, or anyone else, operated a motorcycle, ATV, go kart, or any other off the road vehicle, either on their own property, or on yours? Is so, please state:

- (a) The name and address of operator
- (b) Date and time of operation
- (c) The type of vehicle operated

ANSWER: Complainants operated a golf cart, and lawn tractor over the last 10 years. Children of complainants' rode mini-bikes

(8) During the past 10 years, have your 2 grandsons, Donald and Kelly, lived with you in your home? If so please state:

(a) The years, and how many months of each year stated:

ANSWER: The interrogatory is beyond the scope of permissible questions, and Respondent object on those grounds.

(9) Were you, and/or the operators other vehicles, aware that the complainants were taking decibel readings while the riding was taking place?

ANSWER: No

(10) Please give the names and addresses of the riders and drivers, operating motorized vehicles on your property on Mother's Day, May 13, 2001.

ANSWER: Don Peterson, Woodstock, IL
Matt Mullin, Woodstock, IL
Tammy Lane, McHenry, IL
Clayton Lane, McHenry, IL
Alyssa Lane, McHenry, IL
Spencer Lane, McHenry, IL
Mariann Sporleder, Woodstock, IL
Kelly Krampotich, Woodstock, IL

(11) Of all of the motorized vehicles that have been operated on your property during the past 10 years, within the range of 70 to 160 feet of the complainant's residence, were any of them, or are any of them now, EPA legal?

ANSWER: Yes

(12) Please state the reason for not responding, as directed, to the complainant's complaint last September, October, November, and December, of 2001, and up to the end of February, of 2002?

ANSWER: Notice was first received in December, via personal delivery. At which time we responded after the February 7, 2002 telephone conference.

(13) Is the newly excavated area, cleared of sod, and strategically placed dirt mounds, on your property, the beginning of a new dirt bike track?

ANSWER: The interrogatory is beyond the scope of permissible questions, and Respondent object on those grounds.

(14) Have you discussed the complainant's noise and air allegations with your friend and neighbor, Mr. Price?

ANSWER: Yes.

(15) What did you tell Sheriff Deputy, Anthony Pena, when he came to talk to you on the evening of Wednesday, May 16, 2002, regarding the noise complaint of Mother's Day, May 13, 2001? Please state what you told him about the complainants?

ANSWER: Respondents do not have any recollection of what was said during the conversation. If a report was written, one can be obtained from the Sheriff's Department.

(16) Please provide the name and addresses of each witness who will testify at trial, and state the subject matter of each witness' testimony.

ANSWER: Tammy and Clayton Lane, McHenry, Illinois
Don Peterson, Woodstock, Illinois
Matt Mullin, Woodstock, Illinois
Mariann and Larry Sporleder, Woodstock, Illinois

Each witness will testify to the history and their involvement of operating motorized vehicles on Respondents' property.

If so questioned, each witness will testify to the type of vehicle they have operated on Respondent's property.

Respondents reserve the right to supplement their answer.

(17) Please provide the name and address of each opinion witness who will offer any testimony, and state:

- (a) The subject matter on which the opinion witness is expected to testify;
- (b) The conclusions and/or opinions of the opinion witnesses and the basis thereof including reports of the witnesses, if any;
- (c) The qualifications of each opinion witness, including a curriculum vitae and/or resume, if any; and

- (d) The identity of any written reports of the opinion witnesses regarding this occurrence.

ANSWER: Investigation continues.

VERIFICATION BY CERTIFICATION

Under penalties as provided by law pursuant to Section 109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true, correct, and complete, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

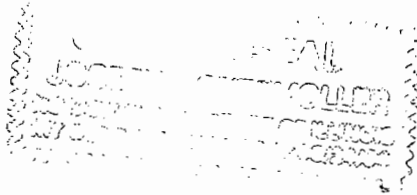
Lawrence Sporleder
LAWRENCE SPORLEDER

Marianne Sporleder
MARIANE SPORLEDER

SUBSCRIBED AND SWORN TO

before me this 6 day of

May, 2002
Judith Gottemoller
Notary Public



MADSEN, SUGDEN & GOTTEMOLLER
Attorneys for Respondents
One North Virginia Street
Crystal Lake, IL 60014
(815)459-5152


BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MILTON C. and VIRGINIA L. KAMHOLZ)
)
 Complainants)
)
 v.) PCB 02-41
) (Citizens Enforcement – Air, Noise)
 LAWRENCE and MARIANE SPORLEDER)
)
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PROOF OF SERVICE

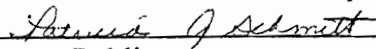
TO: Milton and Virginia Kamholz
 1306 Sullivan Rd
 Woodstock, IL 60098

I, KEITH SLOAN, on oath state that I mailed Respondents Answers to Interrogatories and Request to Produce to the party to whom it is directed by regular mail by depositing the same in the U.S. Mail at Crystal Lake, Illinois, on the 6TH day of MAY, 2002, at approximately 5:00 p .m. with proper postage prepaid.



 KEITH SLOAN

SUBSCRIBED AND SWORN TO
 before me this 6TH day of
MAY, 2002



 Notary Public



MADSEN, SUGDEN & GOTTEMOLLER
 Attorneys for Respondents
 One North Virginia Street
 Crystal Lake, IL 60014
 (815)459-5152

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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v.)	
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LAWRENCE and MARIANE SPORLEDER)	
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Respondents)	

PROOF OF SERVICE

I, the undersigned, on oath, state that I served the attached Notice of Filing, to the Clerk of the Board , and a Motion to Compel ,for Request to Produce, and Interrogatories to be answered by Respondents, directed to Hearing Officer Bradley Halloran, upon the following persons by Certified Mail on this date of May 15, 2002.

The Clerk of the Board
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, Illinois 60601

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

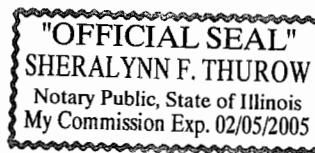
Joseph Gottemoller
One North Virginia Street
Crystal Lake, Illinois 60014

Milton Kamholz Virginia Kamholz
Milton and Virginia Kamholz

SUBSCRIBED AND SWORN TO BEFORE ME THIS

15th DAY OF May, 2002.

Sheralynn F. Thurow
Notary Public



Milton and Virginia Kamholz
1306 Sullivan Road
Woodstock, Illinois 60098
(815) 568 6166