

ILLINOIS POLLUTION CONTROL BOARD  
June 6, 1996

GILBERT & LENDA MARSHALL,	)	
	)	
Complainants,	)	
	)	
v.	)	PCB 96-179
	)	(Enforcement - Air-Noise)
	)	
DANNY LINGENFELTER,	)	
INDIVIDUALLY & AS PRESIDENT OF	)	
CENTRAL ILLINOIS DIRT RIDERS	)	
ASSOCIATION,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by E. Dunham):

On March 7, 1996, the Board directed the parties in this proceeding to file briefs with the Board addressing whether the complained of activity is an "organized amateur or professional sporting activity" and whether the complaint alleges violations of the Act which fall within the Board's purview. Both parties filed briefs with the Board on May 3, 1996.

The complaint in this matter was filed on February 13, 1996. The complaint alleges that respondent is violating Sections 23 and 24 of the Environmental Protection Act and 35 Ill. Adm. Code 900.102 from the operation of a motorcycle repair shop, Central Illinois Dirt Riders Association motorcycle club and motorcycle/ATV/4x4 track and course. The subject property is located on an eighty acre tract located in Fulton County approximately five miles east of Canton, Illinois.

Respondent states that while the complaint alleges dust, dirt, noise and air pollution, the provisions of the Act cited in the complaint relate only to noise. Therefore, the respondent maintains that the Board's inquiry should be limited to the Board's jurisdiction to hear this complaint as a noise complaint.

Respondent maintains that this action is duplicitous and frivolous, and should be dismissed. The respondent contends that this action is duplicitous to an action filed by Fulton County State's Attorney against respondent. The issue in the case presently pending in Fulton County Circuit Court is whether respondent is in compliance with Fulton County Zoning Ordinance. However, respondent notes that the complained of activity, motor sports, is the same as in the complaint filed with the Board.

Respondent further asserts that the activities are an "organized amateur or professional sporting activity" as defined in Section 3.25 of the Act. The Central Illinois Dirt Riders Association (C.I.D.R.A.) was originally incorporated in 1991. The Articles of Incorporation state the purpose of the organization as:

Educational purposes and athletic competition for owners and operators of off-track motorcycles and all-terrain vehicles, including instruction and safe handling, vehicle maintenance and other similar non commercial recreational activities.

(Exh. C of Resp. Br.)

Respondent maintains that members of the public are invited to observe and participate in the events scheduled by C.I.D.R.A.

Complainants maintain that the Board has jurisdiction over this matter and can provide the relief sought. Complainants contend that the facts of this matter are significantly different from other complaints where the Board and the courts have ruled against complainants seeking relief from noise generated from sporting activities. Complainant maintains that respondent and others use of the track at all hours and activities associated with the motorcycle repair shop are not organized sporting activities. Complainants maintain that the continuous daily noise and dust to which the Marshalls are subjected to is exactly the type of evil the statute was intended to remedy.

### DISCUSSION

Section 24 of the Act provides that "[n]o person shall emit beyond the boundaries of his property any noise that unreasonably interferes with the enjoyment of life or with any lawful business or activity". Accordingly, the Board's rules define noise pollution as "the emission of sound that unreasonably interferes with the enjoyment of life or lawful business or activity" and prohibit the emission of such noise pollution beyond the boundaries of one's property. (35 Ill. Adm. Code 900.101 and 900.102.)

Section 25 of the Act places restrictions on the Board's ability to hear noise violation proceedings involving certain sporting activities:

No Board standards for monitoring noise or regulations prescribing limitations on noise emissions shall apply to any organized amateur or professional sporting activity except as otherwise provided for in this Section.

415 ILCS 5/25 (1994).

In addition, the Board notes that Section 3.25 of the Act defines "Organized Amateur or Professional Sporting Activity" as:

[a]n activity or event carried out at a facility by persons who engaged in that activity as a business or for education, charity or entertainment for the general public, including all necessary actions and activities associated with such an activity. This definition includes, but is not limited to, skeet, trap or shooting sports clubs in existence prior to January 1, 1975, organized motor sports, and sporting events organized or controlled by school districts, units of local

government, state agencies, colleges, universities or professional sports clubs offering exhibitions to the public.

415 ILCS 5/3.25 (1994).

The Board must ascertain whether the activities alleged in the complaint filed on February 13, 1996 constitute an “organized amateur or professional sporting activity” and are therefore exempt from the Board’s noise regulations.

The Board has reviewed and given consideration to all of the arguments presented by the parties. The Board finds that the complained of activities do represent an “organized amateur or professional sporting activity” as defined by the Act. Therefore, the Board does not have jurisdiction to hear this matter. The Articles of Incorporation for C.I.D.R.A state that the purpose of the organization is educational. The activities complained of in the complaint include organized motor sports which is specifically included in the definition of “organized amateur or professional sporting activity”.

“Organized amateur or professional sporting activity” includes “all necessary actions and activities associated with such an activity”. The repair activities at the motorcycle repair shop ancillary to racing and use of the track for other than organized events are necessary actions and activities associated with the motor sports activities that take place on the subject property. (See Fore v. Midstate Kart Club (December 16, 1993), PCB 93-171.)

The Board finds that the complained of activities do represent an “organized amateur or professional sporting activity” as defined by the Act. Therefore, the Board does not have jurisdiction to hear this matter concerning alleged violations of the Board’s noise regulations. (See Hinsdale Golf Club V. Kochanski (2d Dist. 1990), 197 Ill. App.3d 634, 555 N.E. 2d 31 and Shephard v. Northbrook Sports Club (2d Dist. 1995) 272 Ill. App.3d 764, 651 N.E. 2d 555.) Additionally, the Board finds that the complaint is insufficiently plead as to any activities causing noise that may lie outside the exemption for this matter to proceed to hearing.

While the complaint also alleges dust, dirt and air violations, the complaint only cites provisions of the Act and Board regulations that pertain to noise. As such, this complaint is not sufficiently plead to proceed to hearing. The Board therefore dismisses the entire complaint in this matter since the complaint only cites to noise provisions of the Act and regulations which do not apply to activities at the facility.

### CONCLUSION

Based on the record, the Board finds that the respondent’s activities as alleged in the complaint constitute an “organized amateur or professional sporting activity”. Pursuant to Section 25 of the Act the Board’s noise standards and regulations do not apply to these activities. Therefore, the Board does not have jurisdiction to hear the complaint as filed alleging violations of the noise standards.

The complaint in this matter is hereby dismissed and the docket closed.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration.")

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 1996, by a vote of \_\_\_\_\_.

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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board