# FORMAL COMPLAINT

**Before the Illinois Pollution Control Board**

Diana Leindl
204 S 2nd
HARtsburg Il 62643
[Insert your name(s) in the space above]
Complainant(s),

v.

Hartsburg Grain Co
Hartsburg Il 62643
[Insert name(s) of alleged polluter(s) in the space above]
Respondent(s)

PCB 20 -
[For Board use only]

**Note to the Complainant:** If you do not use this Formal Complaint form and instead draft and type your own, it must contain all of the information requested by this form. All items must be completed. If there is insufficient space to complete any item, you may attach additional sheets, specifying the number of the item you are completing. Once you have completed the Formal Complaint, the Notice of Filing, and the Documentation of Service, you must "file" these three documents with the Clerk of the Board and "serve" a copy of each document on each respondent. Specific requirements for the filing, service, and contents of these documents are set forth in the Board's procedural rules (35 Ill. Adm. Code 101, 103) and addressed in the explanatory materials accompanying this form.

1. Your Contact Information

Name: Diana + Kevin Leindl
Street Address: 204 S 2nd
Hartsburg IL
County: Logan
State: IL
Phone Number: (217) 737-2675

2. Place where you can be contacted during normal business hours (if different from above)

Name:
Street Address:
County:
State:
Phone Number: ( ) -

3. Name and address of the respondent (alleged polluter)

Name: Hartsburg Grain Co.
Street Address: 100 West Front
Hartsburg IL
County: Logan
State: IL
Phone Number: (217) 642-5211

4. Describe the type of business or activity that you allege is causing or allowing pollution (*e.g.*, manufacturing company, home repair shop) and give the address of the pollution source if different than the address above.

Grain Company built bins near my property, with dryers. When the dryers are running you can not sit on deck because of noise. I have decible meter on my phone and it was bouncing between 66-70. with furthest dryer running.

These bins were buitt with elevator agreeing to put in a row of trees, This has not been done but a fence was installed but has been removed by elevator workers

Dryers should have been placed on [illegible] side away from homes

5. List specific sections of the Environmental Protection Act, Board regulations, Board order, or permit that you allege have been or are being violated.

excessive noise and air pollution endangers our health. Unable to enjoy outside activities. Relaxation is jeapodized affecting our health

6. Describe the type of pollution that you allege (*e.g.*, air, odor, noise, water, sewer back-ups, hazardous waste) and the location of the alleged pollution. Be as specific as you reasonably can in describing the alleged pollution.

We have to deal with noise of dryers, dust and red eye from grain elevator. The red eye and dust gets on and in everything. We also have dealt with rotton corn smell from it being stored on ground.

7. Describe the duration and frequency of the alleged pollution. Be as specific as you reasonably can about when you first noticed the alleged pollution, how frequently it occurs, and whether it is still continuing (include seasons of the year, dates, and times of day if known).

This pollution goes on all year. worse at harvest and when shipping grain.

8. Describe any bad effects that you believe the alleged pollution has or has had on human health, on plant or animal life, on the environment, on the enjoyment of life or property, or on any lawful business or activity.

limits out door activities and fresh air. grain dust is unhealth to animals and humans

Corn rootens on ground and in bins.

9. Describe the relief that you seek from the Board (*e.g.*, an order requiring that the respondent stop polluting, take pollution abatement measures, perform a cleanup, reimburse cleanup costs, change its operation, or pay a civil penalty (note that the Board cannot order the respondent to pay your attorney fees or any out-of-pocket expenses that you incur by pursuing an enforcement action)).

a sound barrer to cut down noise. something to cut down dust and red eye.

Time limits for noise

10. Identify any identical or substantially similar case you know of brought before the Board or in another forum against this respondent for the same alleged pollution (note that you need not include any complaints made to the Illinois Environmental Protection Agency or any unit of local government).

PCB-02-164
PCB-01-86
PCB-09-102

11. State whether you are representing (a) yourself as an individual or (b) your unincorporated sole proprietorship. Also, state whether you are an attorney and, if so, whether you are licensed and registered to practice law in Illinois. (Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. Also, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, an individual who is not an attorney is allowed to represent (a) himself or herself as an individual or (b) his or her unincorporated sole proprietorship, though the individual may prefer having attorney representation.)

Diana - Kevin Leindl
representing our self
owner of 204 S. 2nd

12. Diana Leindl
(Complainant's signature)

**CERTIFICATION**
**(optional but encouraged)**

I, Diana Leindl, on oath or affirmation, state that I have read the foregoing and that it is accurate to the best of my knowledge.

Diana Leindl
(Complainant's signature)

Subscribed to and sworn before me

this 28th day

of August, 2018.

Angie M. Damm
Notary Public

My commission expires: 01-27-2020

OFFICIAL SEAL
ANGIE M DAMM
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES 01-27-2020

## NOTICE OF FILING

**Note to the Complainant:** This Notice of Filing must accompany the Formal Complaint and the Documentation of Service. Once you have completed the Notice of Filing, the Formal Complaint, and the Documentation of Service, you must file these three documents with the Board's Clerk *and* serve a copy of each document on each respondent.

Please take notice that today I, Diana + Kevin Leindl, filed with the Clerk of the Illinois Pollution Control Board (Board) a Formal Complaint, a copy of which is served on you along with this Notice of Filing. You may be required to attend a hearing on a date set by the Board.

**Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney. 35 Ill. Adm. Code 103.204(f).**

Diana Leindl
Complainant's signature

Street 204 S 2nd

City, state, zip code Hartsburg IL 62643

Date 8-27-18

## INFORMATION FOR RESPONDENT RECEIVING FORMAL COMPLAINT

The following information has been prepared by the Board for general informational purposes only and does not constitute legal advice or substitute for the provisions of any statute, rule, or regulation. Information about the Formal Complaint process before the Board is found in the Environmental Protection Act (Act) (415 ILCS 5) and the Board's procedural rules (35 Ill. Adm. Code 101, 103). These can be accessed on the Board's website (www.ipcb.state.il.us). The following is a summary of some of the most important points in the Act and the Board's procedural rules.

### Board Accepting Formal Complaint for Hearing; Motions

The Board will not accept this Formal Complaint for hearing if the Board finds that it is either "duplicative" or "frivolous" within the meaning of Section 31(d)(1) of the Act (415 ILCS 5/31(d)(1)) and Section 101.202 of the Board's procedural rules (35 Ill. Adm. Code 101.202 (definitions of the terms "duplicative" and "frivolous")). "Duplicative" means the complaint is identical or substantially similar to a case brought before the Board or another forum. *See* 35 Ill. Adm. Code 103.212(a) and item 10 of the Formal Complaint.

# DOCUMENTATION OF SERVICE

**Note to the Complainant:** This Documentation of Service must accompany the Formal Complaint and the Notice of Filing. Once you have completed the Documentation of Service, the Formal Complaint, and the Notice of Filing, you must file these three documents with the Board's Clerk *and* serve a copy of each document on each respondent.

This form for the Documentation of Service is designed for use by a non-attorney and must be notarized, *i.e.*, it is an "affidavit" of service. An attorney may modify the form for use as a "certificate" of service, which is not required to be notarized.

## Affidavit of Service

I, the undersigned, on oath or affirmation, state that on the date shown below, I served copies of the attached Formal Complaint and Notice of Filing on the respondent at the address listed below by one of the following methods: [*check only one—A, B, C, D, or E*]

A. _____ U.S. Mail or third-party commercial carrier with the recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery. Attached is the delivery confirmation from the U.S. Postal Service or the third-party commercial carrier containing the recipient's signature and showing the date of delivery as _____ [*month/date*], 20__. [*Attach the signed delivery confirmation showing the date of delivery.*]

B. _____ U.S. Mail or third-party commercial carrier with a recipient's signature recorded or to be recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery. However, the delivery confirmation from the U.S. Postal Service or the third-party commercial carrier containing the recipient's signature is not available to me at this time. On _____ [*month/date*], 20__, by the time of __:__ AM/PM, at _____ [*address where you provided the documents to the U.S. Postal Service or the third-party commercial carrier*], copies of the attached Formal Complaint and Notice of Filing were provided to the U.S. Postal Service or the third-party commercial carrier, with the respondent's address appearing on the envelope or package containing these documents, and with proper postage or delivery charge prepaid. [*Within seven days after it becomes available to you, file with the Board's Clerk the delivery confirmation—containing the recipient's signature and showing the date of delivery—and identify the Formal Complaint to which that delivery confirmation corresponds.*]

C. _____ Personal service and I made the personal delivery on _____ [*month/date*], 20__, by the time of __:__ AM/PM.

D. _____ Personal service and another person made the personal delivery. Attached is the affidavit of service signed by the other person (or the declaration of service signed by the process server) who made the personal delivery, showing the date of delivery as

_____ [*month/date*], 20__. [*Attach the other person's signed affidavit or declaration showing the date of delivery.*]

E. _____ Personal service and another person made or will make the personal delivery. However, the affidavit of service signed by the other person (or the declaration of service signed by the process server) who made or will make the personal delivery is not available to me at this time. On _____ [*month/date*], 20__, by the time of __:__ AM/PM, at

_____

[*address where you provided the documents to the person making the personal delivery*], copies of the attached Formal Complaint and Notice of Filing were provided to _____ [*name of the person making the personal delivery*], with the respondent's address appearing on the envelope or package containing these documents, and with proper delivery charge prepaid. [*Within seven days after it becomes available to you, file with the Board's Clerk the affidavit or declaration of service—containing the signature of the person who made personal delivery and showing the date of delivery—and identify the Formal Complaint to which that affidavit or declaration corresponds.*]

RESPONDENT'S ADDRESS:

Name Hartsburg Grain Co.

Street _____

City, state, zip code Hartsburg Il 62643

(list each respondent's name and address if multiple respondents)

Diana Leindl Diana Leindl

Complainant's signature

Street 204 S 2nd

City, state, zip code Hartsburg Il 62643

Date _____

Subscribed to and sworn before me

this 31st day

of August, 2018.

Jaclyn Bolton

Notary Public

OFFICIAL SEAL
JACLYN BOLTON
Notary Public - State of Illinois
My Commission Expires 6/05/2021

My commission expires: 6-5-21

"Frivolous" means that the Formal Complaint seeks relief that the Board does not have the authority to grant or fails to state a cause of action upon which the Board can grant relief. For example, the Board has the authority to order a respondent to stop polluting and pay a civil penalty, to implement pollution abatement measures, or to perform a cleanup or reimburse cleanup costs. The Board does not have the authority, however, to award attorney fees to a citizen complainant. *See* 35 Ill. Adm. Code 103.212(a) and items 5 through 9 of the Formal Complaint.

If you believe that this Formal Complaint is duplicative or frivolous, you may file a motion with the Board, within 30 days after the date you received the complaint, requesting that the Board not accept the complaint for hearing. The motion must state the facts supporting your belief that the complaint is duplicative or frivolous. Memoranda, affidavits, and any other relevant documents may accompany the motion. *See* 35 Ill. Adm. Code 101.504, 103.212(b). If you need more than 30 days to file a motion alleging that the complaint is duplicative or frivolous, you must file a motion for an extension of time within 30 days after you received the complaint. A motion for an extension of time must state why you need more time and the amount of additional time you need. Timely filing a motion alleging that the Formal Complaint is duplicative or frivolous will stay the 60-day period for filing an Answer to the complaint. *See* 35 Ill. Adm. Code 103.204(e), 103.212(b); *see also* 35 Ill. Adm. Code 101.506 (generally, all motions to strike, dismiss, or challenge the sufficiency of any pleading must be filed within 30 days after service of the challenged document).

The party making a motion must "file" the motion with the Board's Clerk and "serve" a copy of the motion on each of the other parties to the proceeding. The Board's filing and service requirements are set forth in its procedural rules (35 Ill. Adm. Code 101.300, 101.302, 101.304), which are located on the Board's website (www.ipcb.state.il.us).

If you do not file a motion with the Board within 30 days after the date on which you received the Formal Complaint, the Board may find that the complaint is not duplicative or frivolous and accept the case for hearing without any input from you. The Board will then assign a hearing officer who will contact you to schedule times for holding telephone status conferences and a hearing. *See* 35 Ill. Adm. Code 103.212(a).

## Answer to Complaint

You have the right to file an Answer to this Formal Complaint within 60 days after you receive the complaint. If you timely file a motion alleging that the complaint is duplicative or frivolous, or a motion to strike, dismiss, or challenge the sufficiency of the complaint, then you may file an Answer within 60 days after the Board rules on your motion. *See* 35 Ill. Adm. Code 101.506, 103.204(d), (e), 103.212(b).

Failing to file an Answer to the Formal Complaint within 60 days after you were served with the complaint may have severe consequences. Failure to timely file an Answer will mean that all allegations in the Formal Complaint will be taken as if you admitted them

for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office, or an attorney. *See* 35 Ill. Adm. Code 103.204(f).

**Necessity of an Attorney**

Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. In addition, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, even if an individual is not an attorney, he or she is allowed to represent (1) himself or herself as an individual or (2) his or her unincorporated sole proprietorship. *See* 35 Ill. Adm. Code 101.400(a). Such an individual may nevertheless wish to have an attorney prepare an Answer and any motions or briefs, and present a defense at hearing.

**Costs**

In defending against this Formal Complaint, you are responsible for your attorney fees, duplicating charges, travel expenses, witness fees, and any other costs that you or your attorney may incur. The Board requires no filing fee to file with the Board your Answer or any other document in the enforcement proceeding. The Board will pay its own hearing costs (*e.g.*, hearing room rental, court reporting fees, hearing officer expenses).

If you have any questions, please contact the Clerk's Office at (312) 814-3461.