

November 10, 2015

Joint Committee on Administrative Rules  
700 Stratton Office Building  
Springfield, IL 62706

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STATE OF ILLINOIS  
Pollution Control Board

PC#7

RE: In the Matter of Proposal of Clifford-Jacobs Forging Co. for an Amendment to the Site-Specific Rule at 35 Ill. Admin. Code 901.119.

Dear Sir or Madam,

Please allow this letter to advise you that Mark and Linda Kates have asked me to address this letter to you as a comment and objection to the proposed rule listed above. I note that the "rulemaking" regarding this proposed action is on your agenda for November 17, 2015. I further note that the Second Notice that is the subject of this letter does not expire until December 5, 2015. We are urging the Committee not take any action regarding the proposed rule until further studies can be conducted in the following areas that the Pollution Control Board either did not have enough information to make a determination or misinterpreted the standard to which a petitioner must be held in order to show such an amendment should be granted.

Section 901.105(d)(2)(B) of the Administrative Code states that the petitioner must submit detailed information about its level of operation. This information includes the current hours of hammer operation and the approximate number of forgings in manufactured during the past three years. Nowhere in the Second Notice is this information alluded to by the Board. Further in paragraph (d)(2)(I) the petitioner must provide a description of the economic considerations which would justify the amendment proposed. The information provided to the Board by Clifford-Jacobs never answers the question as to why the facility cannot meet the needs of the industry within the parameters already set. Even assuming *arguendo* that the Board correctly interprets paragraph (d)(2)(I) on page 23 of its Second Notice (hereinafter referred to as SN) Clifford-Jacobs must show its economic **and** technical inability to comply with established limits. For the reasons stated below we do not believe Clifford-Jacobs has shown its economic inability to comply with established limits.

As noted by the Board Clifford-Jacobs acknowledges that it currently does not even run a second shift and that it only makes a product when a customer has submitted an order (Second Notice pg. 9 and 10). Clifford-Jacobs goes on to say that even the existing nighttime caps would restrict their ability to attain the flexibility it needs to meet the demands imposed by the marketplace (SN pg. 12) and further asserts that it has already lost business due to the current limitations but cannot quantify such loss. It further asserts that its need for flexibility is "existential" (SN pg. 13). Such an assertion suggests empirical evidence regarding the amount of business lost should exist. We continue to question the market conditions that require a company currently operating only shift in a made to order business to operate a third shift when it should be able to meet needs of it orders by re-implementing a second shift. We believe that Clifford-Jacobs' need for a third shift is theoretical rather than existential. The fact that the Board asked the DCEO to conduct an economic impact study which is required under section 27(b) of the EPA

demonstrates that such a market analysis is feasible. We urge this Committee to again request the study be completed.

Regarding the sound emissions that is the focal point of the objection by the residents of Wilbur Heights, the Board acknowledges that "it is not clear to Board that, as Clifford Jacobs suggests, the residents may be conflating the "boom" sound with ground vibrations or a "wave" or "pulse" that the impulsive sounds forging propagate." (SN pg. 18). The Board states that the record is unclear whether sound emissions are the source of the vibrations or pulses (SN pg. 19) and goes on to say that it is not making a determination whether ground vibrations could violate the nonnumeric noise standards in the Act and Board regulations (SN pg. 20). Without further study the Board simply takes Clifford-Jacobs' assertion that the noise complained of is created by ground vibrations rather than the "boom" that was its concern in the First Notice although it determines on SN pg. 21 that the residents of Wilbur Heights do enjoy protection under the noise related provisions of the Act and Board regulations. Given the nature of the pulses generated by Clifford-Jacobs' operations and the acknowledged rights of the residents we request the Committee order further studies on this matter.

The Board states that it is not in a position to resolve issues of fact raised by the residents such as the assertion that overnight operations would deprive the residents of sleep thus posing health risks such a condition would undoubtedly impose (SN pg. 18). It states that the residents' response to the lack of complaints to Clifford-Jacobs' operations thus far is "plausible" but states that there is no basis to determine that their explanation is evidence one way or another. The fact that 24 residents have commented that this is, in fact, the case would seem to be sufficient evidence of this fact. The residents have no specific quarrel with Clifford-Jacobs other than they just want to be able to sleep at night. The Board's recommendation that they can seek relief once they are unable to sleep at night puts the onus on the residents rather than Clifford-Jacobs who, as stated above has not demonstrated any economic need to put the residents in such an untenable position. Please direct any comments or further inquiries to the Kates residence listed below. Thank you.

Sincerely,



Dennis Steeves  
Attorney at Law

cc: Mark and Linda Kates  
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