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FEB - 6 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

BARBARA STUART and RONALD)
STUART,)
Complainants,)
)
v.)
)
FRANKLIN FISHER and PHYLLIS)
FISHER,)
Respondents.)

No. PCB 02-164
Citizen Enforcement

To: Dorothy M. Gunn
Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

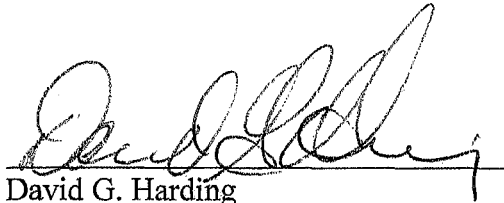
Barbara & Ronald Stuart
213 E. Corning Road
Beecher, IL 60401

Bradley P. Halloran
Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

Bobby Petrunaro
14 W. Jefferson, Room 200
Joliet, IL 60432

NOTICE OF FILING

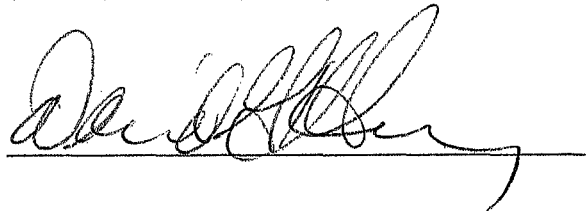
PLEASE TAKE NOTICE that I have, on February 6, 2004, filed with the Office of the Clerk of the Pollution Control Board the Respondent's Objections to Petitioners' Motion to Incorporate, a copy of which is herewith served upon you.



David G. Harding
Attorney for Respondents
100 N. LaSalle St., Suite 1107
Chicago, IL 60602-3803
(312) 782-3039

CERTIFICATE OF SERVICE

I, David G. Harding, certify that on February 6, 2004, I served the attached Motion to Dismiss by delivery to Dorothy M. Gunn at her address as shown above, and by pre-paid first class mail upon all others to whom directed to their addresses as shown above.



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OBJECTIONS TO MOTION TO INCORPORATE

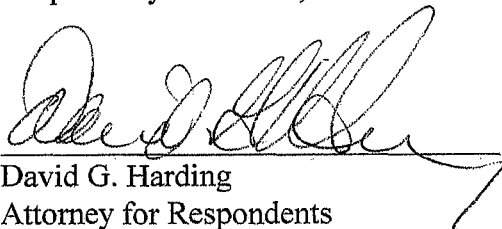
Respondents, Franklin Fisher and Phyllis Fisher, herein object as follows to
Petitioners' Motion to Incorporate:

1. The transcript portions from *Brill v. Latoria, et al.*, PCB 00-219, do not appear to relate in any way to this proceeding. Neither the report of Greg Zak, Petitioners' retained noise expert, nor any other disclosure by Petitioners, makes reference to sound measurements. As such, the testimony proposed by Petitioners to be included, dealing with sound measurement, is not relevant to this case. Even were it relevant, it is out of context, since the testimony and measurements which Mr. Zak criticizes in the proposed materials is not proposed to be included.

2. The documents from the Knox County Chancery case are not within the ambit of 35 Ill. Adm. Code §101.306. They are not from another Board docket. Additionally, they relate to a proceeding prior to enactment of the current Environmental Protection Act.

WHEREFORE, Respondents respectfully object to the proposed materials.

Respectfully submitted,



David G. Harding
Attorney for Respondents
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