## ILLINOIS POLLUTION CONTROL BOARD September 18, 2003

PAUL and DONNA FREDRICKSON,	)
Complainants,	) )
v.	) ) PCB 04-19
JEFF GRELYAK,	) (Citizens Enforcement – Noise, Air)
Respondent.	) )

## ORDER OF THE BOARD (by N.J. Melas):

On August 8, 2003, Mr. Paul and Mrs. Donna Fredrickson (the Fredricksons) filed a complaint against Mr. Jeff Grelyak. *See* 415 ILCS 5/31(d) (2002), *amended by* P.A. 93-152, eff. July 10, 2003; 35 Ill. Adm. Code 103.204. The Fredricksons allege that Mr. Grelyak violated Section 9(a) of the Environmental Protection Act (Act) and Sections 900.102 and 901.102(a) of the Board's noise regulations. 415 ILCS 5/9(a); 35 Ill. Adm. Code 900.102; 901.102(a). The Fredricksons further allege that Mr. Grelyak violated these provisions by continually operating ATVs and motorcycles on his property, causing noise dust and fumes to travel onto the Fredricksons' property. The complaint concerns Mr. Grelyak's residence located at 8915 Ferris Road in Harvard, McHenry County.

Section 31(d) of the Environmental Protection Act (415 ILCS 5/31(d) (2002), amended by P.A. 93-152, eff. July 10, 2003) allows any person to file a complaint with the Board. Section 31(d) further provides that "[u]nless the Board determines that such complaint is duplicative or frivolous, it shall schedule a hearing." *Id.*; see also 35 Ill. Adm. Code 103.212(a). A complaint is duplicative if it is "identical or substantially similar to one brought before the Board or another forum." 35 Ill. Adm. Code 101.202. A complaint is frivolous if it requests "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." *Id.* Within 30 days after being served with a complaint, a respondent may file a motion alleging that the complaint is duplicative or frivolous. 35 Ill. Adm. Code 103.212(b). Mr. Grelyak has filed no motion. No evidence before the Board indicates that the Fredricksons' complaint is duplicative or frivolous.

The Board accepts the complaint for hearing. *See* 415 ILCS 5/31(d) (2002), *amended by* P.A. 93-152, eff. July 10, 2003; 35 Ill. Adm. Code 103.212(a). A respondent's failure to file an answer to a complaint within 60 days after receiving the complaint may have severe consequences. Generally, if Mr. Grelyak fails within that timeframe to file an answer specifically denying, or asserting insufficient knowledge to form a belief of, a material allegation in the complaint, the Board will consider Mr. Grelyak to have admitted the allegation. 35 Ill. Adm. Code 103.204(d). The Board directs the hearing officer to proceed expeditiously to hearing.

## IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 18, 2003, by a vote of 5-0.

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board