

ILLINOIS POLLUTION CONTROL BOARD
August 7, 2003

STEPHEN G. BRILL,)
)
 Complainant,)
)
 v.)
) PCB 00-219
 HENRY LATORIA, individually and doing) (Citizens Enforcement - Noise)
 business as T.L. TRUCKING FOODLINER,)
)
 Respondent.)

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

Stephen G. Brill brought this citizen's noise enforcement action against Henry Latoria, individually and doing business as T.L. Trucking Foodliner (TL Trucking). TL Trucking is a truck washing facility located at 9200 King Street in Franklin Park, Cook County.

On June 6, 2002, the Board issued an interim opinion and order (Int. Op.) finding that TL Trucking caused nuisance noise and air pollution by emitting dust and diesel exhaust fumes in violation of Sections 9(a) and 24 of the Environmental Protection Act (Act) (415 ILCS 5/9(a) and 24 (2002)), and the Board's nuisance noise regulations (35 Ill. Adm. Code 900.102). The Board did not find any violation of the Board's numeric noise limits, as Mr. Brill alleged in the complaint. 35 Ill. Adm. Code 901.102(a), (b), and 901.104. The Board directed TL Trucking to obtain the assistance of a noise expert and prepare a report detailing how it will alleviate the noise and air emissions reaching Mr. Brill's residence.

The Board held no hearing on remedies. However, TL Trucking submitted a report proposing steps to alleviate noise and air emissions on February 28, 2003 (Report). TL Trucking's report included a noise mitigation plan drafted by noise expert Dr. Schomer (Plan). Mr. Brill responded to TL Trucking's proposed remedies on April 22, 2003 (Resp.).

For the reasons set forth below, the Board strikes Mr. Brill's new noise log of air and noise emissions and orders TL Trucking to make physical changes to their wash bays and implement operational changes at the TL Trucking facility as detailed below.

PRELIMINARY MATTER

On April 30, 2003, TL Trucking filed an objection alleging Mr. Brill included new evidence in his response and asked the Board specifically to strike attachment 2, a new noise log of air and noise emissions, of Mr. Brill's response (Obj.).

Post hearing briefs are to argue from facts previously admitted into the record. Village of Sauget v. IEPA, PCB 88-18, slip op. at 6 (Sept. 8, 1988). Generally, post-hearing briefs may not

include new evidence. The parties may include evidence and arguments that directly respond to the opposing party's arguments. Mr. Brill included new evidence in the form of a noise log during the time period of March 10, 2003 to April 15, 2003 in his closing brief.

Mr. Brill introduced the noise log as an attachment to show that TL Trucking's new alleged "policy" has not mitigated noise from TL Trucking. However, the Board does not find any allegations in the record that TL Trucking has implemented a noise reduction policy subsequent to the Board's interim opinion and order in this matter. Accordingly, the Board strikes Mr. Brill's noise log and will not consider the log in fashioning a remedy. The Board notes that even without the log, Mr. Brill effectively states in his closing brief that noise from TL Trucking continues: "Since [Mr. Brill] received Mr. Schomer's mitigation study, there has been no change in the output of noise and diesel fumes from T.L. Trucking[.]" Resp. at 3.

STATUTORY BACKGROUND

After the Board finds a violation, the Board considers the factors set forth in Section 33(c) of the Act to devise an appropriate remedy for the violation. *See* 415 ILCS 5/33(c) (2002). Section 33(c) of the Act provides in part:

In making its orders and determinations, the Board shall take into consideration:

- (i) the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
- (ii) the social and economic value of the pollution source;
- (iii) the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
- (iv) the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
- (v) any subsequent compliance. 415 ILCS 5/33(c) (2002).

The maximum civil penalties the Board may assess are established by Section 42(a) of the Act, which provides in part:

[A]ny person that violates any provision of this Act or any regulation adopted by the Board . . . shall be liable to a civil penalty not to exceed \$50,000 for the violation and an additional civil penalty of not to exceed \$10,000 for each day during which the violation continues 415 ILCS 5/42(a) (2002).

In determining the appropriate civil penalty, the Board may consider any mitigating and aggravating factors of record including those set forth in Section 42(h) of the Act:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the violator in attempting to comply with requirements of the Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the violator because of delay in compliance with requirements;
4. the amount of monetary penalty which will serve to deter further violations by the violator and other persons similarly subject to the Act; and
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the violator. 415 ILCS 5/42(h) (2002).

FACTS

In the June 6, 2002 interim opinion and order, the Board made findings of fact that the Board incorporates here by reference. The Board briefly outlines facts particularly pertinent to fashioning a remedy in this proceeding.

Description of the Facility

The TL Trucking site is approximately 175 feet wide and 412 feet long. Int. Op. at 3. TL Trucking has a facility on the south end of the site with both mechanical repair and wash bays. Id. Three wash bays face the back of the lot and the residential area to the north. The wash bays are approximately 312 feet south of TL Trucking's northern fence.

Masonry walls enclose the first bay, but there is no wall between bays 2 and 3. Each wash bay has a door and a dryer to dry trailers after cleaning. TL Trucking also has a compressor (also called a blower) that has been used outside in the past, but moved inside at the request of the Franklin Park Building Commissioner.

TL Trucking sterilizes the insides of truck trailers to carry food grade materials. The Franklin Park facility operates 24 hours a day, 7 days a week. Int. Op. at 4.

Description of Residential Area

Mr. Brill and his wife have lived in this area since about 1965. Int. Op. at 3. Restricted industrial zoning surrounds the residential area where the Brills live. North of the residential area is Dean Foods, which operates 24 hours a day. Id. South of the residential area are industrial facilities including Bruner & Lay, Just Manufacturing, Regency, and Belmont Plating. East of the residential is River Road, a four-lane highway with a lot of commuter and truck traffic. O'Hare Airport is within a few miles of the residential area. Id. Several neighbors that live in the same residential area as Mr. Brill testified at hearing, including Ms. Sheri O'Neill. Ms. O'Neill's property abuts the northern end of TL Trucking. Int. Op. at 5.

Nature and Frequency of Noise

Residents stated noises occur at TL Trucking seven days a week at all hours of the day, including late night and early morning hours. Int. Op. at 40. The Board found the noises from TL Trucking are frequent and severe. Int. Op. at 47.

Nature and Frequency of Dust and Diesel Exhaust

Residents stated that the primary sources of dust are trucks driving across TL Trucking's crushed stone surface. Int. Op. at 21. Residents stated that the wind carries spray from TL Trucking wash equipment onto their properties. *Id.* Trucks idling or moving on the TL Trucking property are the primary sources of Diesel Exhaust.

Mr. Brill's Proposed Noise Abatement Remedies

Mr. Greg Zak, sound expert, testified at hearing on behalf of Mr. Brill. Mr. Zak proposed three noise barrier alternatives. First, Mr. Zak proposed TL Trucking could construct a building to act as a sound barrier along the fenceline. Second, Mr. Zak proposed a combination of a six-foot berm with an eight-foot fence in order to avoid requesting a variance from the Franklin Park zoning board. Int. Op. at 43. Third, Mr. Zak proposed a noise barrier along the northern boundary of the TL Trucking facility high enough to break Brill's line of sight. Int. Op. at 42. The Board found the first two barriers that Mr. Zak proposed were not technically feasible. Int. Op. at 43.

Regarding the third option, Mr. Zak opined that a noise barrier along the northern boundary of the TL Trucking property would reduce 80% of the noise problem. Int. Op. at 18. Mr. Zak stated the barrier must be airtight, and constructed of any material that weighs three to four pounds per square foot. *Id.* Mr. Zak testified the wall must run 170 feet in length and 14 feet high to reduce noise at Mr. Brill's residence. Int. Op. at 42. To reduce noise at Ms. O'Neill's residence, the wall must be a maximum of 23 feet high. *Id.*

To avoid potential zoning issues with the Village of Franklin Park, Mr. Zak suggested that TL Trucking build a soil berm underneath so the wall need not be greater than eight feet tall. *Id.* Mr. Zak also testified that in his 29 years of experience, he has never seen a case where the zoning authorities prohibited the use of noise abatement measures. Int. Op. at 18.

TL Trucking's Response and Proposed Remedies

Mr. Brian Homans, a noise expert for TL Trucking, also suggested a noise barrier. However, Mr. Homans opined Mr. Zak's proposed noise wall would have limited effectiveness since it is neither close to the source nor the receiver of noise, either of which are optimal locations for blocking noise migration. Int. Op. at 18. Mr. Homans opined that an eight-foot wall at ground level would only reduce noise by up to 5 dB and would not dampen noise from TL Trucking washing equipment.

Mr. Homans recommended that TL Trucking keep the wash bay doors closed while washing and drying trailers to reduce noise from the spinner in both dry and liquid bulk tanks. Int. Op. at 20. Mr. Homans also stated that while keeping the doors closed, TL Trucking must find a way to ventilate the bays. *Id.* Mr. Homans suggested that TL Trucking move the blowers further into the bays and away from their current location. Mr. Homans warned that closing the bay doors would not reduce low frequency sound caused primarily by truck engines. *Id.* Finally, Mr. Homans recommended that TL Trucking install a sound barrier wall along the northern edge of its property. Mr. Homans noted, however, the wall would not reduce much noise from activities such as washing and drying. *Id.*

Mr. Homans also proposed that Mr. Brill could insulate his home to block sound from TL Trucking. Int. Op. at 44. The Board found this option would be technically feasible to abate noise inside Mr. Brill's house, but not outside on the porch or in the yard. In addition, the Board found Mr. Brill would have to keep windows closed. *Id.* The Board did not have enough information to determine whether this alternative is economically reasonable.

New Facts

TL Trucking stated it submitted a request for a variance to construct a wall greater than eight feet high to the Village of Franklin Park, but that the request was denied. Report at 1. Mr. Brill states that the request was not denied, but dismissed as improperly filed. Resp. at 4. In the Franklin Park zoning board minutes that Mr. Brill attached to his response, the zoning board indicated that a request could be made by way of a text amendment. Resp. Attach. 1 at 1.

TL Trucking stated that it has paved the entire lot at the Franklin Park facility. Report at 2. TL Trucking has revised the way it cleans wet bulk trailers to reduce noise emission. Before each hub was opened and cleaned individually. *Id.* Now TL Trucking cleans the fourth hub from the third hub opening. This method reduces sound emissions from the wash bays. *Id.*

Regarding dry-bulk washing, TL Trucking states it has constructed a new facility in Minnesota. Report at 2. Now approximately one quarter as many dry-bulk trucks are washed at the Franklin Park facility as compared to at the time of hearing. *Id.* Dr. Schomer contends this alone is a 6-dB reduction to the 1-hour LEQ for the noisiest source. Plan at 3.

TL Trucking removed the fuel island and requires all drivers to physically come into the building to drop off or receive required dispatch papers. Report at 2. TL Trucking states it has also posted signs and discussed horn use with drivers. TL Trucking states these changes have decreased the need for and, consequently, the use of air horns.

Finally, TL Trucking has installed 20 outdoor outlets that provide heating electricity during cold months and allow tractors to turn off their engines. Report at 2.

TL TRUCKING'S PROPOSED NOISE ABATEMENT MEASURES

Below the Board summarizes the TL Trucking proposed noise abatement measures and the steps proposed by TL Trucking to control noise as set forth in Dr. Schomer's plan.

Dr. Paul Schomer prepared a noise mitigation plan on behalf of the complainants dated February 24, 2003. Dr. Schomer is an acoustical consultant and executive director of the Institute of Noise Control Engineering, a professional society dedicated to noise control engineering. In the plan, Dr. Schomer ranked the noise sources emanating from TL Trucking by level of disturbance or disruption: (1) being the most disturbing and (10) being the least disturbing. The ranking is as follows: (1) spinner in dry-bulk trailer; (2) banging of hatches; (3) horns; (4) trailers bottoming out in potholes, scraping, and clanging; (5) drying; (6) dryer pumps; (7) spinner in wet product trailers; (8) coupling/uncoupling noise; (9) air brakes; and (10) exhaust noise. Plan at 1-2.

Washing machines are referred to as spinners, and these machines make a loud motor humming noise. Int. Op. at 5, 13. The banging of hatches is a loud clanging sound that occurs when someone closes the hatch lid on a trailer. Int. Op. at 5. Coupling is the connecting of trucks with trailers and uncoupling is the opposite. Int. Op. at 13.

Dr. Schomer's goal was to lessen the noise impacts Mr. Brill experiences by 10 to 20 dB. Dr. Schomer did not suggest a noise wall (Plan at 10), but he did propose the following measures to abate each of the noise sources listed above:

Spinner in Dry Bulk Trailer and Banging of Hatches

In his plan, Dr. Schomer notes that TL Trucking has constructed a new facility for dry-bulk washing so now only about a fourth as many dry-bulk trucks are washed now as compared to at the time of hearing. This accounts for a 6-dB reduction for the noisiest source. Regarding the banging of hatches, Dr. Schomer emphasizes that the hatch itself has a rubber noise-reducing gasket but that hatches on trucks naturally make noise when the hatch bolts hit the trailer body. Plan at 3.

Dr. Schomer suggests keeping doors shut while the spinner is in operation or when the hatch bolts hit the trailer body. Dr. Schomer recommends installing an interlock on the washing and drying equipment so the spinner will not operate while the doors are open. Dr. Schomer suggests installing a wall between bays 2 and 3 so trailers can go in and out of one bay while another is being washed in the other bay. Dr. Schomer also recommends, removing ice buildup in freezing weather so the overhead doors close completely, positioning the entire trailer inside the bay during the entire wash cycle, and cleaning the rear hatch with "nozzle" sprayers. Finally, Dr. Schomer states that if overhead doors are to stay closed, TL Trucking must install an exhaust fan system in each bay, mounting the inlet and exhaust on the vertical wall facing south so any noise from the exhaust fans is shielded from the residential areas to the north. Plan at 2-3.

Horns

Dr. Schomer notes that horns are necessary safety equipment on trucks, but that TL Trucking would commit to using the horns only in emergency situations. Dr. Schomer recommends enforcing the prohibition on horn blowing and posting another large sign announcing the prohibition.

Trailers Bottoming Out in Potholes, Scraping, and Clanging

Dr. Schomer's noise mitigation plan notes that TL Trucking paved the entire parking lot, thereby eliminating all potholes. Plan at 5. Dr. Schomer's plan includes a photo of the newly paved parking lot and states the scraping and clanging noises that resulted from potholes no longer exists.

Drying

Dr. Schomer states that the nothing can be done to eliminate the drying noise at the source, but there are ways to minimize the noise. These actions are the same as proposed to minimize noise from the spinner and the banging of hatches: (1) keep doors shut while drying occurs; (2) install an interlock on the washing and drying equipment so they will not operate with the doors open; (3) install a wall between bays 2 and 3 so that trailers can go in and out of one bay while washing occurs in the other; (4) remove ice buildup during freezing weather so that overhead doors close completely; and (5) install an exhaust fan in each bay.

Dryer Pumps and Spinner in Wet Produce Trailers

Dryer pumps have been moved inside the wash bays between 2 and 3. Dr. Schomer states they will be moved again to a location even further inside and further shielded. Plan at 6.

Coupling/Uncoupling Noise

Dr. Schomer states some noise is inevitable when the trailer is coupled or uncoupled, however, TL Trucking can implement some actions to minimize this noise. Dr. Schomer suggests TL Trucking can instruct drivers to perform this operation as quietly as possible and post signs telling drivers to couple and uncouple quietly.

Air Brakes

Regarding air brakes, Dr. Schomer states TL Trucking cannot eliminate air brakes without compromising safety. Plan at 7.

Exhaust Noise – Driving and Idling

To minimize exhaust noise from driving tractors, Dr. Schomer recommends instructing drivers to accelerate slowly and drive at 5 mph or slower. Dr. Schomer also suggests posting a sign announcing this prohibition. Regarding exhaust from idling, Dr. Schomer recommends limiting the period drivers are allowed to idle their engines to 15 minutes.

Dr. Schomer notes that TL Trucking installed 20 outdoor outlets that will provide electric heating for truck cabs in cold weather. Plan at 9.

THE COMPLAINANT'S REQUESTED RELIEF

Mr. Brill objected to TL Trucking's proposed steps to mitigate noise emanating from the truck washing facility and requested instead that TL Trucking construct a noise barrier. Mr. Brill requested no civil penalty. Resp. at 4.

In his response, Mr. Brill claims that signs are ineffective at reducing noise at the TL Trucking facility. Resp. at 1. Mr. Brill has concerns about whether Dr. Schomer's suggestions will be enforced by TL Trucking.

Regarding trailers bottoming out in potholes, Mr. Brill admits that since TL Trucking paved the lot, these noises are reduced. Resp. at 2. However, Mr. Brill states that paving the lot has not eliminated the dust problem at TL Trucking since trucks still bring mud into the facility on the truck tires, which falls off and creates dust. *Id.*

Mr. Brill contends that the noise abatement plan does not address solutions to sounds caused by air brakes, hammering on tankers, load transfer pumps, backup beepers, or noxious diesel gases, none of which are mitigated by closing the bay doors.

Mr. Brill requests that the Board order TL Trucking to build a noise barrier 15 feet south of TL Trucking's north property line. Resp. at 3-4. Mr. Brill states the wall should be of sufficient height (break the line of sight to all surrounding homes), strength and thickness to mitigate emissions from TL Trucking. Resp. at 5.

DISCUSSION

Summary of Interim Opinion and Order

The Board's findings on the Section 33(c) factors in the February 14, 2001 interim opinion and order are summarized below.

1. Interference with the Enjoyment of Life. The Board found that noise and air pollution from TL Trucking's facility substantially and frequently interfered with the complainants' enjoyment of life. The Board weighed this factor against TL Trucking.
2. The Social and Economic Value of the Pollution Source. The Board found that TL Trucking has social and economic value and weighed this factor in favor of TL Trucking.
3. The Suitability or Unsuitability of the Pollution Source to the Area in which it is Located, Including the Question of Priority of Location. The Board found that although TL Trucking had priority of location, TL Trucking substantially increased its activities at the Franklin Park facility after the complainants moved into their homes. Therefore, the increase in noise and air emissions from TL Trucking negates any arguments concerning priority of location. The Board

found that TL Trucking, as operated at the time of the interim opinion, is unsuitable to the area and weighed this factor against TL Trucking.

4. The Technical Practicability and Economic Reasonableness of Reducing or Eliminating the Emissions from the Pollution Source. The Board found that both parties offered technically feasible and economically reasonable solutions to abate noise and air emissions including a noise wall as well as policy and operational changes. The Board found that extending the wash bay is not technically feasible because it violates industry protocol on sterilizing food trailers. The Board also found a berm is not a technically feasible solution due to space constraints.

The Board found that paving the entire TL Trucking lot is an economically reasonable solution for reducing air pollution. The Board found it did not have enough information to weigh this factor either for or against TL Trucking regarding both noise and air pollution.

5. Any Subsequent Compliance. The Board found that TL Trucking made minimal efforts to reduce noise and air pollution at the Franklin Park facility, but despite those efforts, noise and air pollution was ongoing at the time of hearing. The Board weighed this factor against TL Trucking.

Noise Reduction Measures

The Board's interim opinion and order directed TL Trucking to retain a noise expert to further address appropriate remedies and to submit a report detailing how it will reduce noise and air emissions at the Franklin Park site. Int. Op. at 48. Accordingly, this section discusses the parties' arguments and the Board's analysis regarding each proposed noise pollution reduction measure.

Physical Modifications of the Wash Bays

The Board will order TL Trucking to make the following modifications to the wash bays: (1) install an interlock on the washing and drying equipment so the equipment cannot operate while the doors are open; (2) install a wall between bays 2 and 3 so that trailers can go in and out of bay 2 while washing occurs in bay 3 and vice-versa; and (3) install an exhaust fan system in each bay on the vertical wall facing south to ventilate the air inside the bay while doors are closed.

These measures will abate noise created by spinners in dry bulk trailers, drying, dryer pumps, spinners in wet product trailers, and the banging of hatches. TL Trucking has not provided the Board with any information regarding economic reasonableness or technical feasibility. However, TL Trucking has agreed to make these modifications. The Board finds that the proposed physical modifications of the wash bays will help abate noises from 4 of the 10 primary noise sources.

Operational Changes

The Board will order TL Trucking to make the following operational changes at the TL Trucking facility in Franklin Park: (1) keep bay doors shut during the entire wash process; (2) remove the ice buildup at the base of the overhead doors during freezing weather so the doors close completely; (3) enforce the prohibition on air horn blowing except during emergency situations; and (4) relocate dryer pumps further inside the wash bays between bay 2 and 3.

TL Trucking has proposed other noise reduction measures, such as prohibiting trucks from idling for more than 15 minutes at a time and limiting the maximum speed limit to 5 miles per hour (mph) on TL Trucking property. Plan at 8-9. Additionally, Dr. Schomer's report proposes instructing drivers to couple and uncouple trailers quietly. Dr. Schomer contends that quiet coupling is a TL Trucking priority to prevent damage to their equipment. Plan at 7.

Dust and Exhaust Reduction Measures

Since the interim opinion and order, TL Trucking installed 20 outdoor outlets that can provide electric heating in cold weather. These outlets reduce the amount of exhaust TL Trucking produces.

TL Trucking has also paved the entire lot since the Board's finding of violation. TL Trucking claims that paving has eliminated the potholes in the lot, thereby reducing the dust problem. Mr. Brill claims that trucks still bring dirt into the facility by way of tires that becomes ground into dust and blown by wind onto his property. In addition, Dr. Schomer's report proposes measures that will reduce dust and exhaust, such as accelerating slowly, limiting speed to 5 mph on the TL Trucking property, and prohibiting idling for more than 15 continuous minutes at a time.

TL Trucking need not eliminate all dust and exhaust, but reduce the amount of dust and exhaust such that it no longer amounts to air pollution. The Board finds that by paving the lot, TL Trucking has eliminated the dust previously caused by trucks driving over the former crushed stone lot.

The Board finds the decreases in dust and exhaust resulting from installing the 20 outlets and paving TL Trucking's lot in addition to the proposed measures in Dr. Schomer's report will bring TL Trucking into compliance with the Act's air pollution regulations.

CONCLUSION

The Board found TL Trucking caused nuisance noise and air pollution in violation of the Act and Board regulations in a June 6, 2002 interim opinion and order in this proceeding. The Board found that although TL Trucking is properly zoned, the facility is not currently suitable to the area in which it is located. Int. Op. at 41. The Board's finding on this factor was due to TL Trucking's substantial increase in operations when it moved to the area in 1999, and because the facility's around the clock hours of operation deviate from most other businesses in the area.

Since Mr. Brill initiated this proceeding, TL Trucking has made efforts to subsequently comply with the Act and Board nuisance noise and air pollution regulations. TL Trucking has already taken some steps to reduce noise and dust emitted from the TL Trucking facility. For example, TL Trucking has paved the entire TL Trucking lot and installed 20 outdoor outlets that provide electric heat for truck cabs during cold weather. The Board finds these steps eliminate the unreasonable interferences caused by air pollution, as they eliminate the two primary sources of dust and exhaust complained about by Mr. Brill. These steps also reduce unreasonable interferences from noise created by trucks at the TL Trucking facility. While the outlets eliminate the need for trucks to idle for long periods of time in the cold weather months, the paved lot eliminates the scraping and clanging sounds previously caused by trucks traveling over potholes.

Today the Board orders TL Trucking to implement physical and operational noise reduction measures to eliminate the unreasonable noise interferences. After consideration of the 33(c) factors, the Board finds the ordered remedies appropriate. TL Trucking agrees that the physical and operational changes proposed by Dr. Schomer and ordered by the Board today are economically reasonable and technically feasible. In the past, the Board has ordered respondents to restrict operations to remedy a finding of nuisance noise. See Thomas v. Carry Co. of Illinois, PCB 91-195 (May 19, 1994) (ordering respondent to close all bay doors while washing trailers, close bay doors at night, use only south end of lot at night, and repair brakes); Madoux and Moody v. B&M Steel Service Center, Inc., PCB 90-148 (Nov. 19, 1992) (ordering respondent to close all doors to its building during operation). The Board finds that the estimated reduction in noise impacts of 10 to 20 dB (1-hour LEQ) as a result of making the ordered physical and operational changes together with the steps TL Trucking has taken towards subsequent compliance will eliminate the unreasonable interferences with Mr. Brill's enjoyment of life and his property.

This opinion and order constitutes the Board's findings of fact and conclusions of law.

ORDER

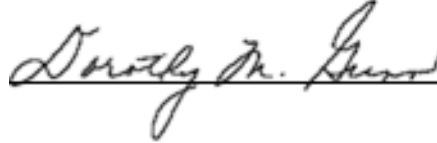
1. The Board incorporates its June 6, 2002 interim opinion and order in this proceeding, as if fully set forth. That order finds that Henry Latoria, individually and doing business as T.L. Trucking Foodliner (TL Trucking), caused nuisance noise and air pollution in violation of 415 ILCS 5/9(a) and 24 (2002) and 35 Ill. Adm. Code 900.102.
2. TL Trucking must cease and desist from any further violations of 415 ILCS 5/9(a) and 24 (2002) and 35 Ill. Adm. Code 900.102.
3. This order applies to the TL Trucking facility located at 9200 King Street in Franklin Park, Cook County.
4. TL Trucking must make the following physical modifications to its wash bays within 90 days of receipt of this order:

- a. Install an interlock on all washing and drying equipment so the equipment cannot operate while the doors are open;
 - b. Install a masonry wall between bays 2 and 3; and
 - c. Install an exhaust fan system in each bay, mounting the inlet and exhaust on the vertical wall facing south.
 - d. Relocate dryer pumps further inside wash bays between wash bays 2 and 3.
5. TL Trucking must implement the following operational changes at the facility within 40 days of receipt of this order:
- a. Keep bay doors shut during the entire wash process;
 - b. Keep bay doors shut whenever hatch bolts hit the trailer body inside wash bays;
 - c. Remove any ice buildup at the base of the overhead wash bay doors during cold weather;
 - d. Enforce the prohibition on horn blowing except during emergency situations;
 - e. Enforce the speed limit of 5 miles per hour on the TL Trucking property;
 - f. Enforce the prohibition on idling for more than 15 continuous minutes on the TL Trucking property; and
 - g. Maintain all paved surfaces on the TL Trucking property in good condition.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2002); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on August 7, 2003, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board