

RESPONSE TO RESPONDENT'S MOTION TO DISMISS

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

Angela Griffin and Michael Griffin,
Complainants,

v.

Knight Hawk Coal, LLC,
Respondent.

PCB No. 2026-042

RESPONSE TO MOTION TO DISMISS

NOW COME Complainants, Angela Griffin and Michael Griffin, appearing pro se, and respectfully respond to Respondent's Motion to Dismiss filed January 14, 2026, and state as follows:

I. THE FORMAL COMPLAINT IS NOT FRIVOLOUS

Respondent asserts that the Formal Complaint is "frivolous" because it allegedly fails to cite violations of the Illinois Environmental Protection Act or applicable regulations. This assertion is incorrect and contradicted by the record.

Under **415 ILCS 5/31(d)(1)** and **35 Ill. Adm. Code 101.202**, a complaint is frivolous only if it **fails to state a cause of action upon which the Board can grant relief**. The Board does not require evidentiary proof at the pleading stage — only that sufficient facts and applicable law are alleged.

The Formal Complaint meets this standard.

II. THE COMPLAINT CLEARLY ALLEGES VIOLATIONS OF APPLICABLE NOISE REGULATIONS

The Formal Complaint explicitly alleges violations of **Title 35, Subtitle H: Noise**, including **35 III. Adm. Code Part 901**, governing sound emissions between land classes.

Specifically, the Complaint alleges:

- The Complainants' property is **Class A land (private household)**
- Respondent's mining operation is **Class C land (nonmetallic mining)**
- Sound is emitted **from Class C land to Class A land**
- Noise levels **exceed allowable decibel limits during both daytime and nighttime hours**
- The emissions constitute a **nuisance and unreasonable interference with the enjoyment of life and property**

These allegations are expressly stated in Items 5, 6, and 8 of the Formal Complaint, including specific references to **Section 901.102** and supporting factual measurements and observations

III. THE COMPLAINT PROVIDES DETAILED FACTUAL SUPPORT

Contrary to Respondent's claims, the Complaint provides extensive factual detail, including:

- Identification of the **noise source** (a 10-foot diameter, 2,500-horsepower underground mine ventilation exhaust fan)
- **Exact distances** from the noise source to the Complainants' residence and property line
- **Continuous operation** (24 hours per day, 7 days per week)
- **Sound level measurements** taken at the Complainants' bedroom window
- Description of **sleep disruption, loss of use of property, and health and quality-of-life impacts**

These facts are more than sufficient to allow Respondent to form an answer and for the Board to evaluate jurisdiction and potential relief

IV. CITIZEN ENFORCEMENT AUTHORITY IS PROPERLY INVOKED

Respondent correctly notes that **415 ILCS 5/24 and 5/25** govern citizen enforcement actions, but incorrectly concludes that the Complaint fails to invoke them.

The Formal Complaint seeks relief that the Board is expressly authorized to grant, including:

- Orders requiring pollution abatement
- Modification of Respondent's operations
- Civil penalties for ongoing violations

These are classic remedies within the Board's authority under the Act and its procedural rules.

V. TECHNICAL NAMING ISSUES DO NOT JUSTIFY DISMISSAL

Respondent notes that the Complaint initially referred to "Knight Hawk Coal Company" rather than "Knight Hawk Coal, LLC." This is a **technical defect**, not a substantive one, and does not prejudice Respondent, who clearly received service, entered an appearance, and filed responsive pleadings.

The Board routinely allows such minor corrections and they do not render a complaint frivolous.

VI. DISMISSAL AT THIS STAGE WOULD BE IMPROPER

At this procedural stage, the Board's role is not to weigh evidence, but to determine whether the Complaint:

1. Alleges facts which, if proven, would constitute a violation; and
2. Seeks relief within the Board's authority.

The Formal Complaint plainly satisfies both requirements.

VII. CONCLUSION

Because the Formal Complaint:

- Cites applicable Illinois noise regulations,
- Alleges specific, ongoing violations,
- Provides detailed factual support, and
- Seeks relief the Board is authorized to grant,

Respondent's Motion to Dismiss should be **DENIED**, and the case should be **accepted for hearing**.

WHEREFORE, Complainants respectfully request that the Illinois Pollution Control Board deny Respondent's Motion to Dismiss and allow this matter to proceed.

Respectfully submitted,

Angela Griffin

Michael Griffin

Complainants, pro se