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ILLINOIS POLLUTION CONTROL BOARD

ANGELA GRIFFIN AND MICHAEL GRIFFIN	)	
COMPLAINANTS,	)	PCB 2026-042
v.	)	
KNIGHT HAWK COAL, LLC,	)	
RESPONDENT.	)	

ANSWER TO COMPLAINT AS MODIFIED BY OPINION AND ORDER OF THE BOARD

NOW COMES Respondent, Knight Hawk Coal, LLC, by and through its attorney Reed & Heller, LLC and for its Answer to the Complaint filed by Complainant, as modified by the Opinion and Order of the Board dated July 23, 2026, hereby states as follows:

1. Respondent admits the allegations in Paragraph 1 of both the Formal Complaint and the Amended Formal Complaint.

2. Respondent neither admits or denies the allegations contained in Paragraph 2 of the Formal Complaint as there are no allegations made in Paragraph 2 of the Formal Complaint. Respondent admits the allegations in Paragraph 2 of the Amended Formal Complaint.

3. Respondent admits the allegations made in Paragraph 3 of both the Formal Complaint and the Amended Formal Complaint.

4. Respondent admits the allegations made in Paragraph 4 of both the Formal Complaint and Amended Formal Complaint.

5. Respondent admits that Paragraph 5 of the Formal Complaint purports to state the statutory and regulatory provisions under which the Complainant alleges violations occurred, namely Title 35, Chapter 1, Part 901 of the Illinois Administrative Code. Respondent denies the remaining allegations in Paragraph 5 of the Formal Complaint. Respondent is without sufficient information to form a belief as the allegations stated in Paragraph 5 of the Amended Formal Petition, and on that basis denies the same.

6. Respondent admits the allegations made in Paragraph 6 of the Formal Complaint alleging that Respondent owns and operates an underground exhaust fan approximately ten (10) feet in diameter, rated at approximately 2,500 horsepower, located generally as described by

Complainant. Respondent denies that Complainant's property is properly classified as Class A land or that Respondent's property is properly classified as Class C land for purposes of 35 Ill. Adm. Code 901.102, and demands strict proof thereof. Respondent denies that sound emitted from the fan exceeds any allowable octave band sound pressure level under 35 Ill. Adm. Code 901.102(a) or (b), denies that any violation of Section 901.102 has occurred, and denies that its operation of the fan constitutes noise pollution or a nuisance that unreasonably interferes with or deprives Complainant of the enjoyment of life or property. Respondent denies each and every allegation in Paragraph 6 of the Amended Formal Complaint.

7. Answering paragraph 7 of the Formal Complaint, Respondent admits that the fan referenced in paragraph 6 was installed and placed into service on or about January 12, 2025 and that the fan has operated continuously since January 12, 2025, except for two occasions on or about October 19, 2025 and November 8, 2025. Respondent also admits that it owns and operates a rock dust silo. Respondent denies that any notice to neighboring property owners was legally required prior to installing or operating the fan. Respondent also denies that deliveries to the rock silo take place at all hours of the day and night, seven days per week. Respondent is without sufficient knowledge to admit or deny the truth of the hearsay statement attributed to an unidentified neighbor and on that basis denies the same. Respondent is without sufficient information to form a belief as to the remaining allegations stated in Paragraph 7 of the Formal Complaint, and on that basis denies the same. Respondent admits the allegations made in Paragraph 7 of the Amended Formal Complaint alleging the fan is operated continuously except as previously admitted in this Paragraph 7. Respondent denies the remaining allegations in Paragraph 7 of the Amended Formal Complaint.

8. Answering Paragraph 8 of the Formal Complaint, Respondent denies that its operations have deprived Complainant of the enjoyment of their property, denies that its operations constitute noise pollution or a nuisance, and denies that it has violated any provision of the Act or the Board's regulations. Respondent is without sufficient knowledge to admit or deny the remaining allegations in Paragraph 8 of the Formal Complaint, and on that basis denies the same. In answering Paragraph 8 of the Amended Formal Complaint, Respondent is without sufficient information or knowledge to admit or deny the remaining allegations, and on that basis denies the same.

9. Answering paragraph 9 of the Formal Complaint, Respondent admits that Complainant seeks an order restoring what Complainant describes as peace and tranquility to Complainant's property, and seeks imposition of a civil penalty against Respondent, including a daily penalty running from the date the fan was placed into service until the alleged violation is corrected. Respondent denies that Complainant is entitled to any relief whatsoever, denies that any civil penalty is warranted, and denies that a daily penalty running from January 12, 2025 is warranted or supported by the Act or Board precedent.

AFFIRMATIVE DEFENSES

1. The measurements relied upon by Complainant in support of the allegations in this Complaint do not conform to the measurement procedures mandated by 35 Ill. Adm. Code 910 for enforcement of 35 Ill. Adm. Code 901, including the requirements that measurements be based on Leq averaging using a one-hour reference time, that measurements correct for the presence of ambient or background noise, and that measurements identify sound pressure levels by octave band as required by 35 Ill. Adm. Code 901.102(a) and (b). The instrument on which Complainant's alleged measurements were taken does not perform octave band analysis, is not a Type I Precision instrument, and does not compute an Leq value, and therefore cannot establish a violation of the numeric standard set forth in 35 Ill. Adm. Code 901.102.

2. The Complaint fails to identify with the particularity required by 35 Ill. Adm. Code 103.204(c) which specific octave band sound pressure level, if any, was allegedly exceeded; the location at which any measurement satisfying the 25-foot minimum distance requirement of 35 Ill. Adm. Code 901.102 was taken; or the factual basis for Complainant's assertion that Respondent's property is Class C land and Complainant's property is Class A land within the meaning of 35 Ill. Adm. Code 901.102.

3. Respondent has installed sound attenuation equipment, including a discharge elbow and attenuator on its exhaust fans, reflecting a good-faith effort to reduce sound emissions consistent with the factors set forth in Section 33(c) of the Act, 415 ILCS 5/33(c). Any penalty sought by Complainant must account for the technical practicability and economic reasonableness of further reducing emissions.

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5. Respondent reserves the right to assert additional affirmative defenses as may become known through discovery and further investigation, and to amend this Answer accordingly.

WHEREFORE, Respondent, Kight Hawk Coal, LLC, respectfully requests that the Board dismiss the Complaint, deny the relief sought by Complainant, and grant such other relief as the Board deems just and appropriate.

Knight Hawk Coal, LLC

By: _____
Gene Gross, one of its attorneys

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CERTIFICATE OF SERVICE

I, the undersigned, on oath or affirmation, state that on the date shown below, I served copies of the attached Answer to Complaint as Modified by Opinion and Order of the Board on the Complainants at the address listed below by on the of following methods:

U.S. Mail or third-party commercial carrier with a recipient's signature recorded or to be recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery. However, the delivery confirmation from the U.S. Postal Service or the third-party commercial carrier containing the recipient's signature is not available to me at this time. On September 21, 2026, by the time of 5:00 P.M. at MURPHYSBORO, ILLINOIS, copies of the attached ANSWER TO COMPLAINT AS MODIFIED BY OPINION AND ORDER OF THE BOARD were provided to the U.S. Postal Service or the third-party commercial carrier, with the Respondent's address appearing on the envelope or package containing these documents, and with proper postage or delivery charge prepaid.

COMPLAINANTS ADDRESS:

Michael and Angela Griffin
4179 New Church Road
Pinckneyville, IL 62274

Attorney for Respondent Signature _____

Date September 21, 2026
1100 Walnut Street
Murphysboro, IL 62966