

NOV 23 2004

STATE OF ILLINOIS
Pollution Control Board

PCB 04-79 (CITIZENS ENFORCEMENT--NOISE)

BONITA SAXBURY AND RICHARD SAXBURY

COMPLAINANTS

V.

ARCHER DANIELS MIDLAND, HULL, ILLINOIS DIVISION

RESPONDENT

ANSWER TO POST-HEARING BRIEF OF ARCHER DANIELS MIDLAND

- *I, Ms. Bonita K. Saxbury would like to correct my name in all correspondence. My correct name is Ms. ----not Mrs.----I am divorced and retained my maiden name Saxbury. Richard Saxbury is my brother..*
- *We would like to make clear once and for all, that Richard Saxbury and Bonita Saxbury were equally involved in the complaint and all the proceedings. Archer Daniels Midland, (hereafter known as ADM), ADM attorney Lee Cunningham doesn't seem to understand this fact, but it is true. I, Bonita, do the typing as Richard does not type. Also, Mr. Cunningham, in his letter, said that Bonnie, which is me, Bonita, was representing them, meaning us, the Saxburys. I would like to clarify that also, I did the speaking on the phone in the teleconferences and at the hearing, because Richard has a hearing problem and he was afraid that he would not hear everything or hear it incorrectly. Mr. Cunningham does not seem to understand these facts or does not want to understand them..*
- *And with the above paragraph in mind, and the post hearing brief from ADM, I would like to question why Mr. Cunningham, attorney for ADM, seems to have a problem with me, Bonita, and seems to address all the complaint to me. This is an untruth and a total fabrication.*
- *I WILL REPEAT, THE SAXBURYS, RICHARD AND BONITA ARE IN THIS COMPLAINT TOTALLY AND EQUALLY, NOT AS MR. CUNNINGHAM HAS SAID THROUGHOUT HIS BRIEF, THAT IT IS ONLY BONITA. I, BONITA, RESENT THAT IMPLICATION DEEPLY AS THAT IS NOT ONLY AN UNTRUTH, BUT AN OUTRIGHT LIE.*
- *It is true that Richard does wear a hearing aid part of the time, but he is not totally deaf, and even if he were, a totally deaf person can pick up vibrations, and believe us, there are plenty of vibrations to get from ADM, Hull Division. His hearing loss is the type that if someone is talking and there is music or something in the background, then he has trouble understanding what the*

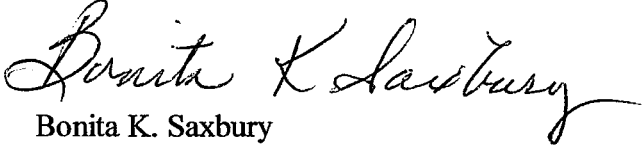
person is saying. He can hear the noise at the elevator loud and clear.

- In reference to the citizen's comments---Walter and Barbara Ward (PC1)---Russell Gill (PC2)---Jean Cox (PC3)-----Robert and Betty Colgrove (PC4)----- These before mentioned people did not have the intestinal fortitude to go to the hearing, stand up and be counted and be subject to cross examination. Instead, they slipped their letters and affidavits through the back door, under the guise of citizen comments. I am certain that Mr. Cunningham had something to do with those tactics, as he had told me over the telephone that "a couple of them would be at hearing", but not one of them showed up at the hearing. I would also like to say that the citizen's comments made by the above people are questionable, because of the fact that Mr. Colgrove was a farmer, Ms. Cox was raised on a farm, and all of them have friends that are farmers, therefore their comments are tainted, being prejudicial. I really doubt that any of the above mentioned people would have even known anything about the complaint until ADM representatives went knocking on their doors, affidavits in hand, and obviously accompanied by a company notary. It does seem odd that all the citizen's comments are dated on the same day--perhaps they were just stamped the same day--or could it be that Mr. Cunningham was behind that also.
- We could have involved some of our neighbors, but we chose not to involve them, as it was our problem. ADM was not honorable enough to take this way of thinking. We don't believe in turning neighbor against neighbor as ADM has done. They brought out the big guns as I have said before and will say again, to squash the bug, the people that have the courage to stand up to them.
- Although much has been said about the Hull ADM Elevator being essential to the area, we would like to comment; AS WE UNDERSTAND THE LAW, AND THIS HAS BEEN VERIFIED BY SEVERAL ATTORNEYS OF LAW, IF NOISE POLLUTION BOTHERS ONE PERSON AND AFFECTS THEIR LIFESTYLE AND ENJOYMENT OF LIFE, THEN THAT IS ALL THAT IS NECESSARY TO FILE A COMPLAINT AND GET DUE PROCESS AND THE RIGHT CONCLUSION.
- We would like to add---RICHARD AND BONITA SAXBURY GREW UP ON A FARM ALSO, BUT THIS IS NOT A FACTOR IN THE NOISE POLLUTION WE ARE EXPERIENCING FROM THE ADM FACILITY. NOISE POLLUTION IS NOISE POLLUTION ANY WAY YOU CUT IT--WHETHER YOU HAVE THE BIG GUN ATTORNEYS OR YOU TAKE ON THE TASK OF COMPLAINT FORMS, HEARINGS, BRIEFS, ETC.
- There was no contrary testimony from the Saxbury's (as Mr. Cunningham inferred)-----that was not a compliment from Richard Saxbury when he said, "I would trade this noise for the noise we had before"-----Richard Saxbury meant that the noise that is coming from the fan is different than before but more disturbing. There are different noises coming from the fans but they are just as real and obnoxious and disturbing as before.
- It seems strange to us that when some of the ADM employees, including Mr. Cunningham, were running up and down the street, turning the fans on and off,

that the fans weren't very loud at all. It is only when they are gone that the fans are turned on loud--full blast.

- As we have mentioned and Mr. Cunningham has seen fit to bring up again, we are not attorneys. I do thank Mr. Cunningham for the comment about my, Bonita, not being an attorney and not totally knowledgeable about the proceedings and procedures, and that the Saxbury post hearing response, albeit less formal than Mr. Cunningham's response, was appropriate. I never pretended to be an expert, but between Richard and myself, we did the very best that we could do. We know nothing about the tactics used by the ADM attorney Mr. Cunningham. We, the Saxburys, do not need an attorney, because we are not involved in any wrong doing.*
- We chose to file the complaint on just noise pollution, but we could have thrown in air pollution, as we have corn husks all over our patio at times, and we have wheat growing beside our home. Therefore, we do not think there is any question of the validity of our complaint of noise pollution. It just all adds up,--- and that good neighbor thing that Mr. Cunningham likes to talk about just doesn't fly in the course of things. In addition, why would a person or persons put themselves through all the stress of filing a complaint, etc., if there were not a huge problem. We, the Saxburys, are both retired and did not need the stress of all it takes to get the complaint process through to the finish. The noise that the ADM elevator puts out is stress enough.*
- Reference to Mr. Cunningham's saying that Richard Saxbury does not leave the home, because of the noise, without Bonita, that is also untrue. There are many times when I, Bonita, have to just take some Tylenol and go to bed because of the noise, therefore Richard does go alone. Also, that comment proves that Mr. Cunningham is just throwing anything and everything out there to confuse the situation, as there is no possible way he would know when we leave home, alone or together.*
- It is not the Saxbury's problem that the elevator, because of the grain storage, it is necessary to keep the grain cool. That is their problem.*
- Yes, I, Bonita was just sixteen years of age when my family moved to Hull, Illinois. During the years I was married, and later divorced and working away from the area. I came home at least every three months or more often. In the latter years, I transferred closer to home because of the illness of my parents, and I was home every weekend, sometimes during the week, and vacation times.*
- I would like to know how Mr. Cunningham can say that in the 1980's, there was much more noise at the elevator because of the dryers, he wasn't around then and ADM didn't own the elevator. Mr. Dimmitt, who had something to do with the elevator at that time, might have told him that this was so, but Mr. Dimmitt, at hearing, under oath, told some untruths.*
- ADM says that, when running the fans, it is only between eight AM and five PM, but that is when most people, including us, are up and around and when the noise affects us.*

- *As to the fans, the top fans didn't bother us and they were not involved in the complaint. As to the fan behind the office, not only I, Bonita, but Richard can hear it go on and off, so as you can see, he is not totally deaf. And that fan also is not a problem.*
- *The sound from the fan in question, and we are not engineers, we do not know the symetics of the fans. We only know that they are noise pollution, not as Mr. Cunningham would have you to believe, an aggravation to only Bonita..*
- *Mr. Cunningham says that the elevator fans were not on on Christmas Eve Day in 2003, that is just not so, we were home on that day and were very surprised that the fans were on. On that Christmas Eve Day, 2003, the fans ran all day long and were so loud that we had to leave our home for hours to get away from the unbearable noise. Who could make a mistake about the fans being on, particularly on that very sacred day, Christmas Eve Day, that would be very memorable. The fans were on. As Mr. Dimmitt and Mr. Thompson told untruths, under oath, at the hearing, why would they not lie about that, and I am sure that Mr. Cunningham didn't drive from Decatur to note whether the fans were on or not. Mr. Cunningham was not here to hear the noise from the fans and he disputes that they were on, so we can only assume that he does not know the truth. The two ADM employees, Mr. Thompson and Mr. Dimmitt, cannot be counted on to tell the truth, as said before, they told untruths at the hearing while under oath. I would hope that Mr. Cunningham did not know that there were untruths told, under oath, at hearing, because that is an outright offense of the ethics of an attorney of law. Although, in one letter to the Saxburys, Mr. Cunningham attributed a comment to Mr. Dimmitt that Mr. Dimmitt, himself, at hearing, disputed.*
- *We, Bonita and Richard Saxbury welcome a site visit, but ONLY if the Pollution Board can make certain that ADM turns the fans on full force, as they do nearly all the time that they do turn them on. Therefore, if the fans are turned on full force,, the Pollution Board will understand that there is a significant problem. Until this complaint was filed, the fans were on nearly every day, running at full force.*
- *We, Bonita and Richard Saxbury would like to express our thanks to Ms. Sudman for her fairness and concern in dealing with this pollution problem.*
- *We, also, in sending this last brief to the Pollution Board, would like to express our thanks to all of you, and pray that justice will be served.*
- *Below is a quote from former U.S. Surgeon General Stewart---*
- *Calling noise a nuisance is like calling smog an inconvenience. Noise must be considered a hazard to the health of people everywhere.*
- Dr. William H. Stewart,
Former US Attorney General


Bonita K. Saxbury

Richard M. Saxbury
