

ILLINOIS POLLUTION CONTROL BOARD
August 18, 1988

THOMAS & LISA ANNINO,)	
)	
Complainant,)	
)	
v.)	PCB 87-139
)	
BROWNING-FERRIS INDUSTRIES)	
OF ILLINOIS,)	
)	
Respondent.)	

MR THOMAS ANNINO APPEARED ON BEHALF OF PETITIONERS;

MR. RAYMOND REOTT & MS. REBECCA RAFTERY APPEARED ON BEHALF OF
RESPONDENT.

INTERIM OPINION AND ORDER OF THE BOARD (by J.D. Dumelle):

This matter comes before the Board upon the September 24, 1987, Complaint initiated by Complainants Thomas & Lisa Annino of 520 Shorely Drive, Barrington, Illinois. The Complaint alleged excessive noise associated with the operation of Respondent's maintenance operations and night storage of garbage collection trucks. Complainants allege that Respondent's facility causes loss of sleep; prevents the use and enjoyment of backyard patios & balconies; forces neighbors to keep windows closed during summer months; causes windows to rattle and has caused the loss of renters.

Hearing was held on January 13, 1988 at 95 East Main Street, Lake Zurich, Illinois. The Complainants were represented pro se and Respondents were represented by counsel. Several members of the public attended and testified.

DISCOVERY ISSUES

There is one discovery issue outstanding which must be addressed at this time: Is the home-made VCR recording (of noise and activity at Respondent's facility) admissible as substantive evidence? It is not.

Although videotapes are admissible so long as their probative value is not outweighed by any inflammatory effect (Barenbrugge v. Rich, 141 Ill. App. 3d 1046, 490 N.E.2d 1368), the video tape proffered in this matter is not an accurate representation of noise and sound levels and thus has no probative value in a case, such as this, where excessive noise and sound is the crucial issue.

Mr. John T. Davis, senior consultant for Occusafe, Inc., and a certified industrial hygienist testified concerning the lack of accuracy of the home-made video tape recording. Mr. Davis, an expert in the area of sound measurement techniques testified that the home-made video recording does not operate pursuant to the strict standards and requirements of professional sound measuring equipment. R. 362.

Mr. Davis stated that the equipment used utilizes either an automatic recording level or has no control over the recording level. R. 364. He further questioned the accuracy and reliability of the device, noting that this type of equipment is prone to picking up nearby, ambient sounds, or can be operated so that the recorder picks up a predominant sound, and automatically adjusts to the sound such that, on playback, one single source is predominant. However, if another sound presents itself near the same level, the hand-held video recorder is likely to shift and adjust to the new sound. R. 314.

Having testified that he listened to the entire tape, Mr. Davis noted that the above described phenomenon explained why "there are times on the tape when the birds and trees sound very loud and almost to the point of the same sound intensity or louder than the trucks ..." R. 365.

Mr. Davis further explained the differences between the type of professional equipment normally reserved for decibel reading, vis-a-vis the hand-held, cam-recorder; and concluded that the cam-recorder was unreliable as a sound measuring machine. R. 368.

The Board finds persuasive the arguments raised concerning the accuracy and admissibility of Complainant's home-made, hand-held, cam-recorder videotape. The hearing officer was correct in denying the admissibility of Complainant's Exhibit No. 10. We affirm that decision.

MOTION TO STRIKE PORTIONS OF PETITIONER'S
REBUTTAL TO RESPONDENT'S POST-HEARING BRIEF

On March 24, 1988, Respondent filed a Motion To Strike Portions of Complainant's Reply Brief (of March 4, 1988) stating that the reply brief contained unsupported allegations of fact not supported by the record and not argued in Complainant's initial post-hearing brief.

The Board will not consider allegations of fact not supported by the evidence. Respondent's Motion To Strike is, therefore, unnecessary and denied.

BACKGROUND

Respondent, Browning Ferris Industries of Illinois, Inc. (BFI) maintains a truck maintenance and overnight storage facility located on Route No. 59 in Barrington, Illinois. Route No. 59 intersects with another busy highway (Route No. 14) just north of the BFI facility. R 51, 78, 246. To the south, an active rail freight line cuts through the area at an angle (Resp. Ex. A). Complainant's condominium complex was built within the resulting triangle formed by the rail freight line, Route No. 59 and Route No. 14.

BFI's facility is located within the same triangle as the condominium complex. The facility consists of a yard capable of storing 70-80 trucks, a small office and two garages, one used for repairs and one used for parking. Although Respondent's brief asserts that there are currently 65 refuse collection trucks located at the facility (Resp. Br. at 3), there is no definitive estimation of the number of trucks. The Board notes that there are apparently between 65 and 80 trucks currently utilizing this facility. R. 350.

On average, Respondent's trucks leave the facility at approximately 6:00 a.m. to conduct their daily routes. This involves the pick-up of solid, non-hazardous wastes and subsequent disposal in accessible landfills. The area serviced by this facility is bounded by Streamwood to the South, Mundelein to the North and Elgin to the West.

In addition to acting as a staging area for trucks and drivers, the facility also maintains and repairs equipment on-site. There are three eight-hour shifts, each performing a separate function. During the 7:00 a.m. to 3:00 p.m. shift, BFI tries to perform the major repairs (R. 308) which may require the removal and/or rebuilding of truck engines. This entails the use of large equipment, including cranes and hoists. R. 309. The second shift (3:00 p.m. to 11:00 p.m.) is used to perform tire repairs (R. 334) and other necessary repairs noted by drivers during the day's routes. R. 310. If a truck breaks down during its route, it is brought back to the facility. If it is determined that welding is required, wastes in the truck are dumped prior to welding. (This is for safety reasons because some wastes are flammable). The repair is made and then the waste is placed back into the truck by use of a Cat 920 Front-End Loader. R. 268. The third shift (11:00 p.m. to 7:00 a.m.) is used for preventive maintenance and brake repairs so that the trucks are ready for the next day's routes. When they return from their daily routes, the trucks are parked at the back of the facility, close to the condominium complex.

COMPLAINANT'S CASE

Complainants called 8 witnesses in support of its claim that noise emanating from BFI's facility constitutes an unreasonable interference with the use and enjoyment of the condominium complex.

Complainant first called Mr. Emanuel Master, who initiated a noise complaint against BFI in 1979. Mr. Master owns a condominium unit which, he says, is located approximately 15 feet from BFI's facility. R. 23. Although Mr. Master no longer lives at the condominium complex, he visited the site one day before testifying, and had lived in the condominium for several years previously, including June of 1987. Mr. Master complained about the use of a particularly loud piece of equipment called a "Detroit Diesel"; he also complained that the repair garage's doors were left open during the summertime; thereby allowing noise to escape. R. 26. Mr. Master further testified concerning the negative effects that the noise has imposed upon him when he was residing there.

Mr. Master complained about the back-up warning bell on the dump trucks. He stated that the bell "is constantly going on and off all night..." (R. 26) "24 hours a day, except Sunday, when they are not there 24 hours..." (R. 28).

Mr. Master testified that he could not open his doors due to the noise: "we have to keep everything closed and under air conditioning because there is no way that you can listen to this and rest..." (R. 28).

Next, Complainants called Ms. Cynthia Di Nino (daughter of Mr. Master) of Apt. No. 520, Shorely Drive. Ms. Di Nino lived approximately one block from the BFI facility from 1981-1986. R. 38. Ms. Di Nino stated that the back-up warning beeps are loud and disturbing (R. 40), that there is excessive noises associated with tractors hauling and dropping sheet metal (R. 42), and that when the garage doors are open the noise is excessive. Mrs. Di Nino further testified that when the police arrive the doors are closed -- only to be re-opened upon police departure (R. 48). Ms. Di Nino testified that her apartment is located near Route No. 14, but that she was not bothered by ambient traffic noises. R. 52.

Next, Complainants called Mr. James Magnanenzi, of Apt No. 204, Shorely Drive. Mr. Magnanenzi leases his unit to renters who did not testify in this proceeding. Mr. Magnanenzi testified that excessive noise had cost him one tenant in 1987. R. 81. On cross examination, Mr. Magnanenzi admitted that Route No. 14 does cause some noise -- but that this noise never drowns out the sound from BFI.

Next, Complainants called Ms. Susan Schick, of Apt. 201, 530 Shorely Drive. Ms. Schick currently lives in the unit and has lived there since 1985. Ms. Schick testified that the noise is ongoing, summer and winter. R. 85. In particular she complained about the back-up beeper warning. R. 98. Ms. Schick admitted that she was aware of BFI's existence prior to moving in (R. 95) and that she is a very light sleeper. R. 88. Ms. Schick noted that her son, who is a heavy sleeper, does not have as much of a problem with the noise. R. 89.

Next Co-Complainant Mrs. Lisa Annino testified. Mrs Annino lives at Unit 101, 520 Shorely Dive and has lived there since August of 1985. R. 103. Mrs. Annino stated that she was unaware of BFI's existence prior to actually moving into the condominium complex (R. 108), but became aware of excessive noise as soon as she moved in. R. 112. Although Mrs. Annino complained of several sources of noise; she identified the back-up warning beep as particularly bothersome. R. 104. Mrs. Annino also identified "machine riveting", revving of truck engines, dropped metal clanging on the ground, shovels scraping on asphalt, men yelling and automobile horns honking as noises which unreasonably interfere with her use of her condominium unit. R. 105, 106. Mrs. Annino testified that "the noise is so bad that it rattles my windows and it wakes up my eleven-month old baby. He wakes up screaming." R. 106. Mrs Annino further testified that her baby hasn't had a good night's sleep or a nap where he hasn't been woken up. R. 107. She also testified that the nighttime noise has kept her awake causing her to complain to her husband if she couldn't get back to sleep. R. 112.

Next, Complainants called Lieutenant Jeff Lawler, a 12 year veteran of the Barrington Police Department. Lt. Lawler testified that in 1978 and 1979 he responded to one call complaining of excessive noise. Lt. Lawler recalled that the garage doors were open and mechanics were working inside with commercial radios on. R. 123. He further testified that he could hear a "banging noise" from the roadway on Route No. 59 before he pulled into the facility. R. 124. However, Lt. Lawler was unable to ascertain the cause or origin of that sound.

Next, Complainant called Mr. Gregory Zak, noise technical expert for the Illinois Environmental Protection Agency (IEPA). Mr. Zak 16 years experience and has handled 1,000 noise cases. R. 151. Respondent stipulated to Mr. Zak's status as an expert in sound measurement. R. 130.

Mr. Zak testified that he researched IEPA's files discovering several noise complaints and a June 16, 1980, letter from the President of BFI, Inc. to the Agency wherein BFI agreed to "21 points of noise abatement." Pet. Ex. 7. R. 133. Mr. Zak also testified that the IEPA has determined that BFI, Inc., "has been in violation of the provisions having to do with the sound

emissions from this particular facility" in 1979 and 1980. R. 137, 138.

In addressing the complaints about the back-up beeper sounds, Mr. Zak testified that pursuant to discussions with OSHA officials he believed that the back-up warnings can be disconnected as long as someone acts as a visual spotter to ensure that no one is behind a truck traveling in reverse. R. 154.

Mr. Zak admitted that the IEPA had not taken any sound measurements at the BFI site since 1980; this notwithstanding the fact that he visited the site the morning of hearing. R. 173. Mr. Zak also admitted that to the best of his recollection BFI responded positively to all 21 abatement points contained in the letter of June 16, 1980. Additionally, concerning the disconnection of back-up warning beepers, Mr. Zak admitted that OSHA has not, to his knowledge, given official clearance for removal of beepers; and that he did not know whether anyone at IEPA has ever proposed the procedure to BFI. R. 189, 190.

Finally Co-Complainant Mr. Thomas Annino, testified. Mr. Annino admitted that he never examined the site prior to purchase -- but he knew that the unit was located in a heavily traveled area, containing rows of businesses. R. 218. Mr. Annino complained that the trucks come and go everyday, with the level of sound being "too much." He also complained about the back-up warning beepers. R. 224, 225.

Mr. Annino stated that officials from BFI did meet with the condo association in attempting to resolve the problem (R. 234); and that BFI, Inc. serves an important societal function -- including the maintenance of garbage trucks. R. 222.

RESPONDENT'S CASE

Respondent called three individuals on its behalf. First, Mr. Thomas Kleczewski, District Manager of BFI, was called. Mr. Kleczewski testified that the site operation is basically the same as in 1960, when the site was chosen. He stated that this is a busy area, with heavily traveled traffic routes and airline traffic. R. 247.

Mr. Kleczewski admitted that there is an ongoing problem and he detailed the corrective action adopted by BFI since 1980. These included the following: insulated garage doors (R. 265); installation of intake breather on air compressor (R. 278); removal of pagers, loud bells, telephones (R. 281); re-route of site traffic to avoid neighbors (R. 277); closing garage doors at night to muffle sound (R. 264); and weekly meetings to remind drivers and workers to avoid excessive noise. (R. 254).

Mr. Kleczewski testified that subsequent to a meeting held with the condo association in 1987, BFI has implemented the following actions: BFI re-arranged the trucks parked near the condos to avoid the need for backing up; thereby reducing the back-up warning on trucks (R. 285); BFI has installed an exhaust fan and ventilation system (R. 286); admonished employees about excessive noise; and re-arranged work schedules. However, Mr. Kleczewski stated that he, himself, never admonished anyone for excessive noise, nor has he seen this done in his presence. Additionally, Mr. Kleczewski admitted that there is truck traffic and employee traffic in the parking lot near the condominium (R. 300), and that he has seen the garage door open during the warmer months -- this is typical during summertime (R. 311); Mr. Kleczewski concluded by stating that the Complainants are too sensitive to the sounds emanating from Respondent's facility. R. 315.

Next, Respondent called Mr. John Lowecki, maintenance manager at BFI, Inc. Mr. Lowecki corroborated Mr. Kleczewski's testimony regarding modifications to the equipment and operation, evidencing BFI's attempts to lower noise emissions. R. 320, 324, 331. In contrast to Mrs. Annino's testimony, Mr. Lowecki testified that it would be a mistake to rev and idle engines to maximum: "you have a potential of an engine coming apart." R. 337. Mr. Lowecki also testified that BFI has obtained and installed sound suppression equipment on its equipment, including rubber curtains on the sides of the engine compartments. R. 331.

Mr. Lowecki also testified that the property on which the condominium is now located was an open field when BFI initially moved its current site, and the property was an open field until the condominium complex was built. R. 344.

Finally, Respondent called John Davis, senior consultant for Occusafe, Inc. R. 360. As noted earlier, Mr. Davis testified mainly concerning the unreliability of the hand-held, home video-recorder. Mr. Davis did not testify concerning the amount of noise directed across the property line or concerning any remedial actions that might be taken.

As a final matter it should be noted that BFI, Inc., like complainants, did not provide any decibel measurement readings.

ANALYSIS

As a threshold matter, this Board will consider Respondent's claim that no cause of action exists without an allegation of a violation of numerical noise control standards. Respondent is in error.

Title VI of the Act provides the procedures and standards of noise control. Sections 23 and 24 of that Title provide:

TITLE VI: NOISE

Section 23

The General Assembly finds that excessive noise endangers physical and emotional health and well-being, interferes with legitimate business and recreational activities, increases construction costs, depresses property values, offends the senses, creates public nuisances, and in other respects reduces the quality of our environment.

It is the purpose of this Title to prevent noise which creates a public nuisance.

Section 24

No person shall emit beyond the boundaries of his property any noise that unreasonably interferes with the enjoyment of life or with any lawful business or activity, so as to violate any regulation or standard adopted by the Board under this Act.

The Board has implemented these statutory sections in two ways. First, the Board has adopted specific numerical limitations on the characteristics of sound that may be transmitted from source to receiver. As no numerical test data were presented in this matter, those portions of the regulations are not at issue. The second method of implementing the noise provisions of the Act are found in 35 Ill. Adm. Code Sections 900.101 and 900.102.

Section 900.101 Definitions

* * *

Noise pollution: the emission of sound that unreasonably interferes with the enjoyment of life or with any lawful business or activity.

* * *

Section 900.102 Prohibition of Noise Pollution

No person shall cause or allow the emission of sound beyond the boundaries of his property, as property is defined in Section 25 of the Illinois Environmental Protection Act, so as

to cause noise pollution in Illinois, or so as to violate any provision of this Chapter.

In effect, these two Sections adopt a regulatory, public nuisance provision for noise control using the statutory phrase "unreasonable interference with the enjoyment of life or with any lawful business or activity" as the standard. Citizens of Burbank v. Overnite Trucking, PCB 84-124, decided August 1, 1985. The pleadings, testimony and exhibits of complainants are founded in this nuisance theory. This Board and the appellate courts have held that a cause of action for noise pollution exists independent of the numerical noise standards set forth in Title 35, Subtitle H: Noise Chapter I: Pollution Control Board. Illinois Coal Operators Association v. IPCB, 59 Ill. 2d 305, 319 N.E.2d 782 at 785.

Thus the issue remaining is whether Respondent's action constitutes an unreasonable interference with the enjoyment of life or with a lawful business or activity.

The evidence is clear that Respondent's activities does interfere with the use and enjoyment of the condominiums. The evidence of loss of sleep, inability to use backyard patios and balconies, residents forced to keep windows closed in summer and the loss of renters due to excessive noise is extensive and uncontroverted. Testimony by condominium unit owners other than Complainants (the Anninos) is important in establishing not only the existence of an unreasonable interference, but also in establishing the range of interference with the full panoply of expected uses for those condominiums in that development. There is simply no question that Respondent's use of that facility constitutes an unreasonable and unpermitted interference with the adjacent land owners in the condominium complex. By emitting excessive noise on neighbors, Respondent is, in effect, asserting a sound-oriented, noise easement which has not been granted and does not exist.

Respondent has implied that Complainants are the real party at fault because they failed to investigate or discover the existence of Respondent's operation prior to purchasing. While it is true that Complainants failed to discover BFI's facility, this does not constitute actual or constructive acceptance of excessive and unreasonable noise. It is true that, generally, a party is charged with constructive knowledge of land conditions and restrictions which would be discoverable upon inspection. This shibboleth of the law does not tender to BFI, Inc. the right to seize the right of quiet enjoyment from nearby condominium owners.

In reviewing actions of this sort, the Board is required, pursuant to Ill. Rev. Stat. 1986, ch. 111 1/2 par 1033(c), to consider enumerated criteria before entering its orders and final

determinations. First among these is the character and degree of interference with the health, general welfare and physical property of the complainant(s). The record is devoid of testimony directed to health issues as well as the issues related to physical property. However, the record is replete with testimony of the ill effects of Respondent's facility as related to the general welfare. As noted above, the record describes the extent of unreasonable interference: loss of ability to sleep, deprivation of balcony and patios, loss of renters, etc... All of these demonstrate detriment to the welfare of complainants.

Section 1033(c) also requires that this Board consider the social and economic value of BFI, Inc.'s facility. There is no question that Respondent serves an important social function -- both in terms of health, and efficient utilization of societal resources. Mr. Thomas Annino, admitted to the social value of the facility during his testimony. R. 222. Additionally, the Board takes notice of the fact that a facility such as Respondent's is an important source of jobs as well as local tax revenue -- however the Board points out that exact figures have not been introduced by Respondent. It is important to note that timely and proper refuse collection is expected and is not a luxury; it is demanded by the people. To this end Respondent, in maintaining its equipment, is serving the will of people of Illinois.

Section 1033(c) also requires that this Board review the area in which Respondent's facility is located to determine the suitability of BFI, Inc., to the location in which it is situated. On this issue, there were last minute allegations of fact and Motions To Strike. Without wasting space, the Board merely cautions that it has not considered facts not in evidence and will not do so.

As noted earlier both Complainants and Respondents are located in the rough triangle created by Routes No 59 , 14 and railroad tracks and has been so located for twenty-eight years. There are small businesses, an office complex, stores, other factories and residences in the area. The Board finds that BFI's operation is not unsuited for the locality in which it is situated.

Finally, Section 1033(c) requires that this Board review the technical practicability and economic reasonableness of reducing or eliminating the noise emissions from Respondent's facility. Based upon the testimony explaining the type of work performed at the site, it would appear to be impossible to eliminate the noise emissions without ordering that the facility be closed. The Board will not do this. The only issue is whether there are any actions or methods available to reduce the impact on Complainants.

The Board takes note that it appears to be routine for the doors of the repair garage to be left open during the daytime, in summer. R. 310, 311. The noises emanating from this garage seem to be one of the most complained of sources of noise. R. 26. There is a dearth of information regarding the cost effectiveness of using air conditioning in this garage. If the garage door were closed during the summer months, this would seem to alleviate one of the greatest sources of complaint. Without the submission of data regarding costs and cost effectiveness the Board will not decide whether any sort of temperature control technology should be utilized.

Respondent introduced Exhibit 'B' which purports to be a letter to the IEPA field manager setting forth 21 points of noise reduction options which BFI agreed to undertake. However, based upon the testimony of neighbors, BFI has not consistently adhered to its promise to implement the practices set forth in Exhibit 'B'.

Also, it should be noted that the noise most often identified as bothersome is the back-up, warning beep triggered when a garbage truck is operated in reverse. Respondents claim that this is an OSHA requirement over which they have little control. Complainants, however, introduced some evidence that this OSHA regulation can be avoided in cases where a "spotter" is employed to ensure that no one is behind a truck moving in reverse. Complainants evidence was interesting -- but sketchy. The witness stated that use of a spotter to obviate the back-up beeper requirement originated with IEPA. But he could not identify whether or not OSHA has ever officially adopted this alternative. More information is needed in order to determine whether this is, indeed, a viable alternative. If such is viable, it might alleviate the single most identified source of interference. (It should be noted that the mere fact that OSHA requires the back-up beeper does not transform an unreasonable noise into something reasonable).

Likewise, Respondent's sound study was incomplete insofar as it focused solely on sound abatement at the facility. From reviewing the evidence, this Board cannot determine, for instance, whether a tall, sound absorbing fence or trees would greatly reduce transient sound. Additionally, the Board is unable to determine whether there are other options available for use at the condominiums which may reduce noise penetration; the use of insulated glass panels might be one such alternative.

The Board recognizes that "coming to the nuisance" is no defense. Because Respondent has operated the facility in the same manner for approximately 28 years we can assume that noise emissions have been excessive for a long time.

The issue directly before the Board is whether or not Respondent's facility causes an unreasonable interference with the use of the condominium units. The answer is yes. Loss of sleep, inability to use patios and balconies, loss of renters and rattling of glass are all unreasonable interferences caused by Respondent's facility.

Thus, the Board finds that Respondent has violated Ill. Rev. Stat. ch. 111 1/2 par. 1023, 1024, and 35 Ill. Adm. Code 900.102. However, because Respondent has acted in good faith throughout, the Board finds that the imposition of a penalty would not, at this time, aid in enforcement of the Environmental Protection Act. The Board will, however, retain jurisdiction over this matter to endure that the subsequent Board Order is carried out.

The Board does hereby adopt the following Order.

ORDER

Respondent, BFI, Inc., shall comply with the following:

1. All personnel will be cautioned to avoid any and all types of unnecessary noise in all of their activities.
2. The North doors of the metal building will be kept closed, except when moving a truck in or out. These North doors will be kept closed at all times during nighttime hours (10:00 p.m. to 6:00 a.m.), unless impracticable to do so.
3. The entire interior of the metal building will be thermally insulated.
4. The glazed portion of the East door in the North wall of the building will be covered with an insulation blanket.
5. The Northeast corner of the parking lot will not be used for parking and moving trucks. The area will only be used for relatively permanent storage of obsolete trucks, and for day-time parking of some automobiles.
6. Unless otherwise impracticable, repairs and noisy maintenance will be confined to the later afternoon and early evening hours.
7. The East doors of the repair garage building will be kept closed, except when moving a truck in or out. These East doors will be kept closed during night-time hours (10:00 p.m. to 6:00 a.m.).

8. The use of the east bays of the repair garage building will be discontinued on the third shift.
9. An intake muffler will be installed on the air intake or the air compressor located in the building.
10. The use of compressed air will be minimized at night, so that permitting air to leak or escape to the atmosphere will be avoided as much as possible.
11. Pounding or impact-type operations will be avoided at night wherever possible.
12. The use of loud personal radios will be avoided, particularly at night.
13. The use of paging horns or similar signaling devices at night will be minimized or avoided insofar as feasible.
14. Loud voices and/or instructions or shouting, laughing or other human sounds will be avoided at night when out in the yard or when maneuvering equipment into the building.
15. Dropping or otherwise moving tools or other equipment at night will be eliminated, if the moving method involves impact or scraping noise of any kind.
16. At night, trucks shall be moved as little as possible, and shall be started only when absolutely necessary. Also at night, acceleration and idling of trucks shall be minimized as much as possible and trucks, if moved, shall be moved at the lowest feasible speed and minimum engine speed.
17. The two (2) trucks that have Detroit diesel engines, Unit Nos. 79 and 81, will not be moved at all during night-time hours.
18. Trucks to be serviced in the bays on the North side of the Western most garage will gain access to those bays by being driven out the Southwest gate, North on Barrington Road, into the Northwest gate, and then into the bays.
19. At night, insofar as possible, the South drive of the property will be used and movement will be restricted to the Southwest corner of the property.
20. Respondent shall request from OSHA if it is possible to obtain a clearance or approval to turn-off the back-up, beeper warning with use of a spotter from movement of

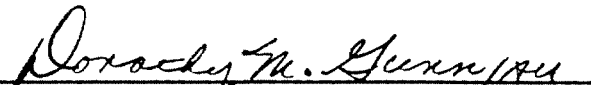
trucks within the facility's confines. Respondent shall report back to this Board no later than October 15, 1988, concerning the results of the inquiry.

21. Respondent shall, by itself, or through a consultant, analyze and review the feasibility of installing a noise absorption barrier at the East end of its property. This shall include a review of the reasonability of a tall, noise absorbing/deflecting fence or any other practicable method. Respondent shall report back to this Board no later than October 15, 1988 concerning the results of this study.
22. Additionally, Respondent shall analyze and review the cost effectiveness of utilizing some sort of temperature control technology in the working garage. Respondent shall report the results of such study no later than October 15, 1988.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1985, ch. 111-1/2, par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 18th day of August, 1988 by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board