

ILLINOIS POLLUTION CONTROL BOARD  
February 3, 1994

ANNE SHEPARD, JAMES VERHEIN, )  
and JEROLD LECKMAN, )  
 )  
Complainants, )  
 )  
v. ) PCB 94-2  
 ) (Enforcement)  
 )  
NORTHBROOK SPORTS CLUB, )  
and VILLAGE OF HAINESVILLE, )  
 )  
Respondents. )

ORDER OF THE BOARD (by M. Nardulli):

On January 3, 1994, Anne Shepard, James Verhein, and Jerold Leckman (Shepard or complainants) filed a complaint against Northbrook Sports Club and the Village of Hainesville (Northbrook or respondents) alleging that Northbrook emits noise in violation of Sections 23 and 24 of the Environmental Protection Act (Act) (415 ILCS 5/23 and 24). On January 20, 1994, complainants filed a motion for waiver of filing requirements. Complainants requested a waiver of the regulation found at 35 Ill. Adm. Code 103.123(a) which provides, in pertinent part, that proof of service shall be demonstrated by "registered or certified mail return receipt signed by respondent or his authorized agent." Instead, complainants wish to demonstrate service by unsigned original return receipts and a photocopy of acknowledgement of certified mail service signed by respondents' authorized agents.

On January 19, 1994, attorney for Northbrook Sports Club filed an appearance and on January 25, 1994, attorney for Village of Hainesville filed an appearance. Both appearances were general in nature and did not challenge sufficiency of service. Therefore, complainants' motion concerning proof of service is moot. Accordingly, the Board hereby denies complainants' motion.

On February 1, 1994, complainants' filed a motion for extension of time to reply to the Board's order of January 20, 1994, and a motion to compel admission of genuineness of documents, a request for documents and a request for admission of facts. Complainants' seek until "14 days past respondents' time to reply" to complainants' motions to respond to the Board's order. Complainants' response to the Board's January 20, 1994, order was to be received on or before February 9, 1994. On February 3, 1994, respondent Village of Hainesville requested that complainants' motion for extension of time be denied and that complainants' other motions be stricken.

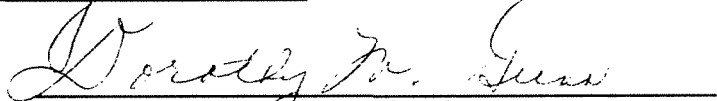
In general, a party has 7 days to respond to an opposing

party's motion (35 Ill. Adm. Code 101.241(b)). In this case, Village of Hainesville has responded to the motion for extension of time, but Northbrook Sports Club has not. Although Northbrook Sports Club's response time has not yet expired, the Board's procedural rules allow the granting of a motion prior to expiration of the response time where undue delay or material prejudice would result (35 Ill. Adm. Code 101.241(b)). The Board finds that a denial of the motion for an extension of time would create undue delay and material prejudice in this matter.

The Board anticipates ruling on complainants' pending motions at the next Board meeting. Should the Board grant those motions, complainants will need time to review the respondents' response.<sup>1</sup> Therefore, the Board shall grant the extension of time until March 4, 1994. The Board will not rule on complainants' motion to compel admission of genuineness of documents, request for documents and request for admission of facts, or Village of Hainesville's motion that complainants' pending motions be stricken, at this time.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 3<sup>rd</sup> day of February, 1994, by a vote of 7-0.

  
 Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board

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<sup>1</sup> The Board emphasizes that it has not yet made a determination on complainants' pending motions. Today's order does not, in any way, forecast the Board's ultimate resolution of the motions.