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ILLINOIS POLLUTION CONTROL BOARD

DOUGLAS and BARBARA OLTMAN,)	
)	
Petitioners,)	
)	
-vs-)	NO: PCB 96-185
)	
TERRY AND KELLY COWAN,)	
)	
Respondents.)	
-----)	

PROCEEDINGS taken on July 23, 1996, at Rock Island County Building, County Board Room, 1504 Third Avenue, Rock Island, Illinois, commencing at 9:54 a.m., before Michael L. Wallace, Chief Hearing Officer, and Victoria Fickel, Certified Shorthand Reporter and Notary Public of the County of Rock Island, State of Illinois.

APPEARANCES

Petitioners by: Douglas and Barbara Oltman
(Pro Se) 4512 - 21st Avenue
Moline, IL 61265

Respondents by: Terry Cowan
(Pro Se) 4510 - 21st Avenue
Moline, IL 61265

Reported by:
Victoria Fickel
Certified Shorthand Reporter
Registered Merit Reporter

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I N D E X

WITNESS	EXAMINED BY	PAGE
Douglas Oltman	Mr. Wallace	7
Barbara Oltman	Mr. Wallace	17
Terry Cowan	Mr. Wallace	45

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IN RE: Oltman -v- Cowan

1 THE HEARING OFFICER: Pursuant to
2 direction of the Illinois Pollution Control Board,
3 comes now docket number PCB 96-185 in the matter of
4 the Complaint of Douglas and Barbara Oltman versus
5 Terry and Kelly Cowan.

6 This is a private enforcement action,
7 alleging a noise violation of -- of -- in the
8 operation of a window air-conditioner from Mr. and
9 Mrs. Oltman.

10 Are you represented by an attorney?

11 MR. OLTMAN: No. No.

12 THE HEARING OFFICER: Mr. Cowan, are
13 you represented by an attorney?

14 MR. COWAN: No.

15 THE HEARING OFFICER: You have to
16 speak up so the court reporter can take down your
17 answers.

18 As I explained briefly off the record,
19 this is a private enforcement Complaint. Each side
20 will have an opportunity to present the facts and
21 evidence that they wish to present. The
22 petitioners, the Oltmans, will go first.

23 Mr. Cowan, you may -- you may present
24 evidence after that. It's very simplified. It's a
25 trial-type proceeding. We will swear you in, if

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1 you wish to testify. If you have any exhibits,
2 please have them ready so the court reporter can
3 mark them as exhibits.

4 And at the conclusion of the hearing, if
5 anyone wants to file a brief, we can discuss that.
6 I don't know that there is any need for that. And
7 then the record will be presented to the Pollution
8 Control Board, and an Opinion and Order will be
9 issued.

10 I do not know the exact time frame. I do
11 not have control over the issuance of the Opinion
12 and Order. So I cannot give you an exact day or
13 board meeting that the Opinion would be voted on by
14 the full board.

15 That is most of the preliminary matters I
16 had. Since you -- neither party are represented by
17 an attorney, you are therefore appearing pro se.
18 And we will go ahead and try to get through this.

19 We will -- we do observe certain rules of
20 evidence. So whatever you try to put in, it has to
21 be very factual and not speculation or conjecture.

22 Now, if you would please state your name
23 and address for the record, please.

24 MR. OLTMAN: All right. Douglas
25 Oltman. 4512 - 21st Avenue Moline.

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1 THE HEARING OFFICER: Mrs. Oltman.

2 MRS. OLTMAN: Barbara Oltman, 4512 -
3 21st Avenue, Moline.

4 THE HEARING OFFICER: Mr. Cowan.

5 MR. COWAN: Terry Cowan, 4510 - 21st
6 Avenue, Moline.

7 THE HEARING OFFICER: Now, Mr. or
8 Mrs. Oltman, do you wish to make an opening
9 statement?

10 MRS. OLTMAN: Well, this window
11 air-conditioner was taken out of the window. This
12 is -- we have suffered with this for two years
13 through Mr. Cowan, and we tried to get something
14 done, and he refused to do anything. Then he took
15 the window air-conditioner out of the window. We
16 do not know if he put central air in or anything.

17 THE HEARING OFFICER: All right.
18 And do you have anything else you wish to say on
19 opening statement?

20 MRS. OLTMAN: No.

21 THE HEARING OFFICER: Mr. Cowan.

22 MR. COWAN: I'd just like to mention
23 that all of this started on August 28th of '95. We
24 just recently purchased the home. Mr. and Mrs.
25 Oltman insist on coming over and harassing us about

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1 the window air-conditioner. I said I would try and
2 shut it off at night.

3 We got a phone call in the middle of the
4 night, when are we going to shut it off. Well, we
5 just wasn't going to shut it off.

6 So I'd just like to mention that we have
7 central air now, and it is on the west side of the
8 house.

9 THE HEARING OFFICER: Okay.

10 Mr. Cowan, do you have any other remarks
11 you wish to make as an opening statement?

12 MR. COWAN: No.

13 THE HEARING OFFICER: Okay. If all
14 three of you would stand and raise your right
15 hands.

16 Do you solemnly swear the testimony you
17 are about to give in this proceeding is the truth
18 and the whole truth and nothing but the truth?

19 MRS. OLTMAN: I do.

20 MR. OLTMAN: I do.

21 MR. COWAN: I do.

22 THE HEARING OFFICER: Would you be
23 seated. Okay.

24 Which one wishes to go first?

25 MRS. OLTMAN: You can go first.

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1 THE HEARING OFFICER: All right.

2 Mr. Oltman, we will do this relatively
3 formal.

4 DOUGLAS OLTMAN,
5 called as a witness, after having been first duly
6 sworn, was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY THE HEARING OFFICER:

9 Q. Would you state your name again.

10 A. Douglas Oltman.

11 Q. And you reside in Moline, Illinois?

12 A. Right.

13 Q. And you are one of the individuals that
14 signed the Complaint that's currently before the
15 Pollution Control Board?

16 A. Right.

17 Q. And if you would like to begin, your
18 basic Complaint is the operation of a window
19 air-conditioner --

20 A. Thank you.

21 Q. -- by Mr. Cowan?

22 A. Correct.

23 Q. When -- how long have you lived at 45 --
24 or the 4512 address?

25 A. Forty-five years.

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1 Q. And have you had various neighbors other
2 than Mr. Cowan during that 45 years?

3 A. Yes.

4 MRS. OLTMAN: Yes.

5 BY THE HEARING OFFICER:

6 Q. And which direction does the front of
7 your house face?

8 A. Front of our house is north.

9 Q. And the window air-conditioner that you
10 are complaining of is located on which side?

11 A. On the west (sic) side of their place and
12 east (sic) side of ours.

13 Q. Now, when did you first notice the window
14 air-conditioner?

15 A. As soon as they moved in. The day they
16 moved in.

17 Q. None of your prior neighbors had --

18 A. Yes. Definitely.

19 Q. Was it the same air-conditioner?

20 A. Same air-conditioner, yes.

21 Q. Do you remember what date that was?

22 MRS. OLTMAN: At first, it was --

23 THE HEARING OFFICER: Mrs. Oltman,
24 let Mr. Oltman testify --

25 MRS. OLTMAN: Yeah. Okay.

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1 THE HEARING OFFICER: -- on his own.

2 BY THE HEARING OFFICER:

3 Q. I'm sorry. To back up, that
4 air-conditioner that you are complaining of, has it
5 been installed in that house for over two years, or
6 do you have any knowledge of how long that
7 air-conditioning unit was in the window?

8 A. Yes. It's been over -- yes. It's been
9 over two years.

10 Q. And do you recall when the Cowans moved
11 into the 4510 address?

12 MRS. OLTMAN: Pardon?

13 BY THE HEARING OFFICER:

14 Q. Mr. Oltman, you know, you need to look at
15 me and answer the question.

16 A. Okay. But the exact date he gave, I
17 don't know.

18 Q. All right. When did you start -- do you
19 know the -- do you remember the date that you
20 started hearing the air-conditioner?

21 A. The date they moved in.

22 Q. And do you remember what date that was,
23 sir?

24 A. No.

25 Q. How would you describe the

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1 air-conditioning unit?

2 A. It's noisy. It's a large window
3 air-conditioner. 220. And more or less it's a
4 noise, as well as the vibration, and it's very
5 close to our lot line. Five feet to the lot line
6 from their house and eight feet from our house
7 facing our bedroom.

8 Q. So you believe that the air-conditioning
9 unit is a total of 13 feet from your window?

10 A. Right.

11 Q. Do you recall -- do you know how large in
12 terms of BTUs the air-conditioning unit is?

13 A. I think it's 20,000.

14 Q. Did you have any sound engineers run
15 any --

16 A. Yes.

17 Q. -- tests?

18 A. Yes, we did. We had Beling Engineering
19 came out and did a test on the noise. And it was
20 set on low at the time, but the reading was
21 acceptable as far as -- well, it was not acceptable
22 as far as noise pollution is concerned. And
23 reading of 70.

24 Q. Okay. Now, Beling Engineering?

25 A. Beling Engineering.

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1 Q. Could you spell that, please.

2 A. B-E-L-I-N-G. B-E-L-E-I-N-G (sic).

3 Q. And there is no representative from
4 Beling Engineering here today?

5 A. No. We have an affidavit signed by them
6 that they made the hearing -- made the test.

7 Q. How many other -- did you keep a log of
8 how many days you noticed that the window
9 air-conditioning unit was in operation?

10 A. Yes. It was continuous. Even if it
11 was -- temperature was decent outside, it was still
12 running. And at times, way late at night. And in
13 fact, I don't believe it ever shut off.

14 Q. Well, did you keep a log of -- as to
15 exact dates?

16 A. Yes.

17 Q. What dates do you have in your log, sir?

18 A. Barbara has got it.

19 MRS. OLTMAN: He says you.

20 BY THE HEARING OFFICER:

21 A. From day one from they moved in.

22 Q. I know, sir. What day was that? Do you
23 know?

24 A. No.

25 Q. In your log, do you have any specific

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1 dates marked down?

2 A. Yes.

3 Q. What would some of those dates be?

4 A. She has got all the paperwork.

5 Q. Well, did you keep the log, or did
6 Mrs. Oltman keep the log?

7 A. She kept the log.

8 Q. All right. All right. Assuming for
9 the moment that the Cowans moved in in August
10 of '95, what period of time did you hear the
11 air-conditioning unit the rest of calendar year
12 1995?

13 A. Every day.

14 Q. Every day, sir?

15 A. Every day. Continuous.

16 Q. I'm talking -- let's be a little more
17 realistic, sir. I'm not -- did you hear -- you
18 certainly didn't hear it in December.

19 A. No. No. No. No. Calendar year, no.
20 From when they moved in and during the summer
21 period, if you want to put it -- it that way.

22 Q. That's what I'm trying to determine,
23 sir. When did you --

24 A. Okay.

25 Q. During what period of time did you hear

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1 the air-conditioning unit?

2 A. Boy, I can't come up with an exact date.

3 Q. All right. Now, in your Complaint you
4 indicate that the noise pollution source started
5 May 22nd, 1994. Do you recall --

6 A. Right. That's correct.

7 Q. -- was there another family or individual
8 living in the 4510 house at that time?

9 A. No.

10 Q. You don't think so, or you don't --

11 A. I know not. No. They were not.

12 Q. Would you describe the noise that you
13 hear in this window air-conditioning unit?

14 A. Yes. It's a vibration type of noise.
15 It's -- the sound levels, of course, was in the --
16 Beling took their readings, and this is very
17 irritating to my wife. She has a health problem.
18 And the reason we kept going over and asking them
19 people to shut the thing down or do something about
20 it was because it was affecting her health, and we
21 have all kinds of doctors' documents to that
22 effect.

23 Being as it's so close to the lot line,
24 we get excessive amount of vibration from the
25 thing. Noise is determined many different ways,

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1 and irritation to health -- or I don't know how to
2 put it, except that it's very frustrating. And she
3 had to put up with it all day long.

4 I'm working. And when I come home, I
5 hear all about it, and I have to do something about
6 it. And that's when I went over and talked to the
7 people.

8 Q. How has it interfered with the use and
9 enjoyment of your property?

10 A. Just the vibration and the noise
11 pollution. We can't --

12 Q. How -- in terms of square feet, how large
13 is your house, sir?

14 A. It's 32 by 24. I don't know square feet
15 that would be.

16 Q. How many rooms inside?

17 A. Four.

18 Q. Upstairs, downstairs?

19 A. We have an upstairs, but it's blocked
20 off.

21 MRS. OLTMAN: It's an attic.

22 BY THE HEARING OFFICER:

23 A. Yeah. Story-and-a-half building. It's
24 not occupied.

25 Q. Can you hear the air conditioning in any

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1 room of your house?

2 A. All rooms. We can't get away from it.

3 Q. And you mentioned that it runs late at
4 night. Have you been awakened at night by this
5 air-conditioner?

6 A. We can't get to sleep, period.

7 Q. Now, you mentioned that you've had
8 discussions with your neighbors. Do you recall
9 when those discussions took place?

10 A. Not the exact date.

11 Q. Do you know how many times you may have
12 talked to your neighbors?

13 A. Every week, once a week.

14 Q. Starting from when?

15 A. He works odd hours, and I waited until he
16 got home and talked to him, period.

17 Q. Now, as of today's date, have you heard
18 the window air-conditioning unit?

19 A. No. It's been removed.

20 Q. Okay. And do you recall when it was
21 removed?

22 MRS. OLTMAN: I have all that
23 information.

24 THE HEARING OFFICER: Okay.

25 BY THE HEARING OFFICER:

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1 Q. Mr. Oltman, is there anything you wish to
2 say that you may not have said yet?

3 A. Except --

4 Q. In terms of testifying and giving factual
5 evidence.

6 A. When they first moved in, I tried to get
7 it resolved by talking. And that didn't work.
8 Time after time after time. And finally, I was
9 ordered off their property, and that's when we
10 initiated this Complaint. Like I say, my wife has
11 the exact date, and I just can't put up with it
12 anymore. That's all.

13 And like I say, it's been removed. But
14 up until that time, we had to do something to --

15 Q. All right. I understand that, sir. But
16 is there any other factual evidence that you may
17 wish to present to the Board that has not been
18 brought out by my questions?

19 A. I don't know of any, sir.

20 Q. Pardon me?

21 A. No. I don't have any.

22 THE HEARING OFFICER: Mr. Cowan, do
23 you wish to cross-examine Mr. Oltman on anything he
24 said?

25 MR. COWAN: No.

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1 THE HEARING OFFICER: Do you
2 understand the concept of cross-examination?

3 MR. COWAN: Yes.

4 THE HEARING OFFICER: If there is
5 any questions that you wish to ask Mr. Oltman at
6 this time, you may do so.

7 MR. COWAN: No, I don't.

8 THE HEARING OFFICER: Thank you,
9 Mr. Oltman.

10 BARBARA OLTMAN,
11 called as a witness, after having been first duly
12 sworn, was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY THE HEARING OFFICER:

15 Q. Mrs. Oltman, would you state your name
16 again for the record, please.

17 A. Yes. Barbara Oltman.

18 Q. And you are married to Mr. Oltman?

19 A. Yes.

20 Q. And you've resided at the house of 4512
21 for how long?

22 A. Forty-five years.

23 Q. Now, you've -- during Mr. Oltman's
24 testimony, he indicated that you -- that he
25 indicated that you were in possession of some of

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1 the documentation. Is there any documentation that
2 you wish to present?

3 A. Okay. Mr. and Mrs. Cowan moved in in
4 March of '94. He was referring -- Mr. Cowan was
5 referring to the date of my first letter to them by
6 certified mail. That was August the 28th of 1995.

7 Q. All right. So do you recall them
8 specifically moving in March of 1994?

9 A. Yes.

10 Q. And as of March 1994, was this window
11 air-conditioning unit installed in the house?

12 A. The window air-conditioner was put in in
13 May. May the 22nd.

14 Q. Of?

15 A. 1994.

16 Q. Okay. So my question was: As of March,
17 there was no air-conditioning unit in the house?

18 A. No. It was too cold and rainy.

19 Q. I'm sorry. I'm trying to get at, was
20 there any unit currently in the house when they
21 moved in?

22 A. No. No. No.

23 Q. And you remember that from observing that
24 window?

25 A. Yes. We can see it from our bedrooms.

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1 Q. Now, your testimony is that the window
2 air-conditioning unit was installed on what date?

3 A. May the 22nd, 1994.

4 Q. And why do you remember that date,
5 Mrs. Oltman?

6 A. Because I wrote it down, and that's when
7 the noise started with the windows shut. That
8 noise -- and you can hear it through the whole
9 house. And our bedroom, you can't even go to bed
10 it was so bad. And which my husband, Douglas,
11 tried to talk to Mr. Cowan on it. He did turn it
12 off sometimes at 2:30 in the morning, but then they
13 get back up about 5:30 in the morning, turn it back
14 on. And that continued until, oh, I would say
15 maybe June. And then --

16 Q. Of '94? I'm sorry.

17 A. When it got hot.

18 Q. June of '94?

19 A. Yes. And it continued up to the time
20 they took it out, which we noticed when they took
21 the window air-conditioner out of the window was
22 June the 21st of '96.

23 Q. Now, in the summer of '94 -- do you
24 recall the summer and fall of '94? Do you recall
25 to what month the air-conditioning unit ran?

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1 Q. Why do you say it got worse?

2 A. They run it on high, and we didn't
3 know --

4 Q. I'm sorry. Are you saying the noise was
5 louder?

6 A. Yes.

7 Q. And you attributed that to being run on
8 high?

9 A. Right.

10 Q. Could you tell a noticeable --

11 A. It had to be, 'cause they are trying to
12 cool a two-story building, and they're trying to
13 push the cool air up, which it does not. Cold air
14 goes down, not up.

15 Q. All right. Staying with May the 18th of
16 '95 through the '95 summer and fall, how long did
17 you notice the air-conditioning unit running?

18 A. Until about the end of October again.
19 They took it out in November.

20 Q. Did you have any further discussions with
21 the Cowans during the summer of 1995?

22 A. Okay. My husband, Douglas, went over and
23 talked to him. It was -- the noise was so bad.

24 Q. Do you remember --

25 A. And I had such a terrible headache.

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1 Q. Do you remember when that occurred?

2 A. Yes. That was June the 15th of 1995.
3 That day Mr. and Mrs. Terry Cowan, quote, we're not
4 putting in central air until you pay for it. That
5 was the last time we talked to Cowans.

6 Q. June 15th, '95?

7 A. June 15th, 1995.

8 Q. Let's back up. I know I'm getting out
9 you out of order. Prior to June 15th, 1995, had
10 you talked to the Cowans in 1995?

11 A. My husband, Douglas, did. I didn't. I
12 have never talked to either one of them.

13 Q. All right. But during his testimony, he
14 said you probably had that written down.

15 A. He could not remember.

16 Q. Do you have any other dates written down
17 where there was communication between you and your
18 neighbors?

19 A. Not since June the 15th of '95.

20 Q. I'm saying prior to June. I'm trying to
21 back up now.

22 A. Prior about five different times, my
23 husband really went over there when it got real bad
24 and talked to them. And like I said --

25 Q. Okay.

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1 A. -- it was about every week that we went
2 over there and tried to get something done. We
3 just --

4 Q. All right. Now, let me try to understand
5 this and clarify it for the record. From May of
6 '94 to June of '95, do you think that your husband
7 had communications more than five times or five
8 times total?

9 A. More than five times.

10 Q. Okay. Do you have any other dates for
11 that period of time other than June the 15th?

12 A. I have them wrote down in my book, but I
13 don't have them with me.

14 Q. Do you know -- do you have an estimate of
15 how many communications there were?

16 A. Like he -- well, I imagine it probably --
17 at least every week, every other week.

18 Q. I know. But you know that -- are we
19 talking 10, 15, 20? That's what I'm looking for.

20 A. Okay. I think that probably he went over
21 there at least maybe ten.

22 Q. And the last time would be June the 15th,
23 1995?

24 A. Last time was June the 15th of '95.
25 That's when Cowan ordered Douglas off of his

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1 property. They quoted that they are not putting in
2 a central air-conditioner unless we pay for it.
3 That's when we started contacting the EPA.

4 Q. All right. Now, after June 15th, 1995,
5 did -- have you taken any steps concerning your
6 noise Complaint?

7 A. Yes. We started proceedings.

8 Q. What was your next step?

9 A. My next step was contacting the EPA in
10 Moline, and we talked to Mr. Jim Gallagher there.
11 He contacted a Greg Zak in Springfield.

12 Q. Did you speak with Mr. Zak at all?

13 A. Yes. Douglas did.

14 MR. OLTMAN: Yes, I did.

15 BY THE HEARING OFFICER:

16 Q. And what was the result of that
17 conversation?

18 A. The result of that conversation was that
19 Mr. Zak sent us some information and some forms to
20 fill out, which I did. And he -- before that,
21 though, he said to send a certified letter to the
22 Cowans, and we did on June the 28th of 1995. The
23 first letter. Second letter was in November.

24 Q. Do you have copies of these letters to
25 submit as evidence?

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1 accept. And that was the paperwork that the EPA
2 Board sent us -- Mr. Zak sent us to fill out and
3 send them a copy. And we sent them a copy, but
4 they refused to accept the certified letter.

5 Q. What was the third one?

6 A. The third one was the paperwork like --

7 Q. What date, ma'am?

8 A. Pardon?

9 Q. What date was on the third letter?

10 A. January 24th. That was when the first
11 one was sent.

12 Q. Of '96?

13 A. No. '95.

14 Q. Okay. And I don't believe it could be.

15 A. Well, that would -- yes, that would be
16 '96.

17 Q. Okay.

18 A. I'm sorry.

19 Q. All right. And was that the filing of
20 the Complaint with the Pollution Control Board?

21 A. Yes.

22 Q. Attached to the Complaint is their August
23 28th, '95, letter and November 10th '95 letter?

24 A. Right.

25 Q. Is there also a June 28th letter?

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1 Mr. Zak after August 28th?

2 A. Yes. Douglas did. And he said to send
3 the second letter, which was November 10th --

4 Q. Okay.

5 A. -- of '95.

6 Q. Now, the -- then you said then you filed
7 the Complaint. Now --

8 A. Right.

9 Q. -- our office received this Complaint on
10 February 29th, 1996.

11 A. Right. That's when we sent all the
12 paperwork to you with the original copy. Nine
13 copies and the original.

14 Q. And you are saying then you had it served
15 by the sheriff?

16 A. Uh-huh.

17 Q. You need to say yes or no.

18 A. Yes.

19 Q. And this apparently was served by the
20 sheriff's office on February the 15th, 1996.

21 A. Yes. That's the one that they refused to
22 accept.

23 Q. They refused to accept the sheriff's
24 service?

25 A. No. They refused to accept the certified

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1 letter. Then we had to take it to the sheriff, and
2 the sheriff served it.

3 Q. All right. Now, what other conversations
4 have you had with the Environmental Protection
5 Agency, specifically Mr. Zak or any other --

6 A. None.

7 Q. -- personnel? Did Mr. Zak come out to
8 the residences?

9 A. No.

10 Q. Did anyone from the Agency come out to
11 the residences?

12 A. No.

13 Q. And you had no other contact with anyone
14 from the Environmental Protection Agency other than
15 Mr. Zak?

16 A. No.

17 Q. Now, Mrs. Oltman, would you describe
18 how -- what type of noise that you hear from the
19 window air-conditioning unit.

20 A. Well, it just -- in plain words, it was
21 terrible. You couldn't go to bed.

22 Q. I'm sorry. You need to use better
23 descriptive words than terrible, if you can.

24 A. All right. Have you ever heard loud
25 machinery going outside your bedroom window? All

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1 right. That noise was so bad that you could hear
2 it through the closed windows, the drapes. You
3 could hear it through the basement.

4 We were down in the basement one night
5 and trying to get away from it. They turned it up
6 on high. The highest I guess it could go. And it
7 just -- our ears were just about ready to pop that
8 it was so loud coming through the basement. And
9 you can imagine it would be 12 or 13 feet from
10 their house to our bedroom window. That's how
11 close.

12 And the air-conditioner was closer than
13 what their house and our house is from house to
14 house.

15 MR. OLTMAN: It's sticking away from
16 the building.

17 BY THE HEARING OFFICER:

18 A. Yes. The air-conditioner was sticking
19 quite a ways from the building.

20 Q. As a window unit --

21 A. Yes.

22 Q. -- it exits from the window a certain
23 amount of inches?

24 A. Yes.

25 Q. Do you know how much?

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1 Q. I'm sorry, ma'am. Let's -- let's stay
2 with the period of time between 1994 --

3 A. Okay.

4 Q. -- and today, July of 1996.

5 A. Okay, uh-huh.

6 Q. During 1994, did you see a physician --

7 A. Yes.

8 Q. -- concerning your high blood pressure?

9 A. Yes. Every six months. The high blood
10 pressure -- again, I will repeat. The high blood
11 pressure started in 1990 from that window
12 air-conditioner that the neighbor previous --

13 Q. You are talking about a prior occupant of
14 4510?

15 A. At the same address as Cowans is living.
16 And we also tried to get something done through
17 them. Then we found out that the EPA -- we could
18 get -- try to get something done through the EPA.

19 Q. Back in 1990?

20 A. Yes. We also had a lawyer try to see if
21 we could get something done. And he didn't know
22 how to go about doing anything and trying to get
23 control of -- so we could have some relief.

24 Q. What year was that done? Was that in
25 1990?

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1 A. That was in 1990.

2 Q. Then let's --

3 A. But we couldn't.

4 Q. Let's go forward. Let's -- the only
5 thing we are concerned with is Mr. Cowan's
6 air-conditioning unit --

7 A. Right.

8 Q. -- from May of 1994. So whatever -- and
9 I thought I understood the testimony to be that
10 there was no air-conditioning unit in there prior
11 to May of 1994.

12 A. Because of the winter months.

13 Q. All right. Have you -- have you been to
14 a physician within the last two months, June or
15 July?

16 A. Yes. July 1st, I was.

17 Q. And is your blood pressure still high?

18 A. Yes. It has went down from 239 over 120
19 to 190 over 90 now.

20 Q. Do you take blood pressure medications?

21 A. Yes. 180 tablets a month.

22 Q. How long have you been taking that
23 medication?

24 A. Since 1990. But it increased
25 considerably from 120 tablets to 180 tablets.

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1 Q. Did your doctor tell you that your blood
2 pressure was caused by this noise?

3 A. Yes. That I had to get some rest. I
4 wasn't getting any sleep. I also have a heart
5 condition. The doctor also knows that too.

6 Q. And how long have you been diagnosed with
7 a heart condition?

8 A. Since the age of eight. I had rheumatic
9 fever.

10 Q. Now, did -- Mr. Oltman said that you kept
11 a log. What type of log do you have, ma'am?

12 A. I have a daily thing that I write
13 everything down in. Kind of a weekly type of a log
14 that I usually --

15 Q. Do you have -- did you make copies of
16 that?

17 A. No. That's too many pages to try
18 and copy all that. But as far as the
19 air-conditioner -- Cowan's air-conditioner, it runs
20 steady. It never shut off. At first there in
21 1994, they did shut it off whenever they decided to
22 go to bed, which sometimes was midnight, 2:30 in
23 the morning.

24 Q. Okay. Do you have any other testimony
25 that you wish to give?

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1 we couldn't have the windows up because of that
2 attic fan going all night long.

3 And you are supposed to shut them off
4 before dusk, and they had it going all night long.

5 Q. Okay. Now, did you have any documentary
6 evidence that you wanted to place into the record?

7 A. I have the Beling, if you need that. I
8 have a -- this is what I'm afraid that they might
9 do. Now, as I stated --

10 Q. Well, let's not talk in terms of --

11 A. Wait.

12 Q. -- in terms of what you -- you are afraid
13 of what they might do.

14 A. This just appeared in our paper Sunday.
15 And they cannot heat that upstairs. Or they have
16 two furnaces in that house. According to the
17 statement when the house was up for sale, they have
18 two furnaces in that house. They try to cool that
19 house with one central air-conditioner with a
20 two-story house, which is four rooms down. Was
21 four rooms down. I don't know what they have done
22 to it now. And they have got two rooms. That's
23 four rooms down and a bath and two rooms up and a
24 bath. And they are trying to cool that with one
25 window air-conditioner. And I don't think that

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1 there is no way that central air is going to pull
2 that cool area into that upper story. Although
3 they do have -- the last -- excuse me. The last I
4 knew, they had the registers on the ceiling part,
5 where most houses the registers are on the floor.
6 And they might have changed it, but I don't think
7 so. Because one night I went in to open up the
8 windows from -- 'cause I close them because of the
9 sun coming from the west side, and they do have a
10 register at the top of that one bedroom that we can
11 see in the upper story.

12 And -- but central air, it doesn't do any
13 good. Ours didn't either. And when it went out,
14 we just never replaced it. We are not going to
15 ever. And in an ad -- or in an article that was in
16 the paper Sunday was where window units -- you put
17 a window unit in and it helps central air. That's
18 what we are afraid they are going to do, put a
19 window air-conditioner back in that -- one of the
20 three windows. One window for the bedroom and the
21 two windows for the lower level.

22 Q. This window air-conditioning unit is
23 in -- is it located on the second floor?

24 A. No. They don't have any window air
25 conditioning in -- a window air-conditioning unit

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1 in any window that we can see. We don't even know
2 that they have got central air.

3 Q. Okay. The offending unit that is the
4 subject of this Complaint, what floor was it
5 located on?

6 A. First floor, so they could pull the cool
7 air or the cold air from the window air-conditioner
8 up to the second story level in order to do that.
9 That's the reason why they run it on high all the
10 time. And when we would open up the windows, they
11 would go and turn that air-conditioner -- if they
12 had it down on medium or low, then they would go
13 turn it up on high. Just as soon as I opened up my
14 windows, then it would go back up on high again.

15 And as I stated before, we did not know
16 it was a 220 unit. Although we figured -- the
17 lawyer asked us if it was a 220 unit, and we said
18 we did not know that it was a 220 unit, until I
19 seen their ad in the dispatch on July 1st. And
20 it's the same air-conditioning unit.

21 These are pictures. This is their
22 backyard. This is their backyard here. This is
23 the two stories. This is the air-conditioner.
24 This is -- this fence here is our fence. Because
25 we have a pool, and we have to have -- that is --

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1 here is their air-conditioner window right there.

2 THE HEARING OFFICER: All right.

3 Let the record reflect I'm looking at a group of
4 four photographs, with the fifth one on the reverse
5 side. And as Mrs. Oltman described, the back of
6 the house of the Cowans.

7 MRS. OLTMAN: Uh-huh.

8 THE HEARING OFFICER: The side area
9 between the two houses. The air-conditioning unit
10 itself. And then another photo, is that looking
11 out from your window?

12 MRS. OLTMAN: That is my window.
13 That's what that air-conditioner did to my window.

14 BY THE HEARING OFFICER:

15 Q. What did it do, ma'am?

16 A. It just completely covered it with -- oh,
17 I would assume like a fog and that. It's on there.
18 You have to take and scrub it off. And I cleaned
19 the windows last fall. And when they had the
20 air-conditioner going, that's what my windows look
21 like.

22 Q. The fifth picture is another picture of
23 the house?

24 A. That's duplicate pictures on the back.

25 Q. All right. Now, do you wish to present

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1 these as an exhibit of yours?

2 A. Well, if you hand me that back, you can
3 have the ones on the back there. I think they are
4 all the same. Are they all the same? Yeah.

5 (Deposition Exhibit Nos. 1 through 4
6 marked for identification.)

7 THE HEARING OFFICER: For the
8 record, Petitioners' Exhibit No. 1 is a photo of
9 the air-conditioning unit.

10 Petitioners' Exhibit No. 2 is a view from
11 the Oltmans' house looking out the side window.

12 Petitioners' Exhibit 3 is a side view of
13 the house of the Cowans and the fence of the
14 Oltmans.

15 And Petitioners' Exhibit No. 4 is the
16 back of the Cowan house.

17 MRS. OLTMAN: Right. That fence
18 that you see at the bottom there, sir, is the
19 window when I raised it so we could take a picture
20 to show what it did to my windows. This is the --
21 in other words, that you see is our fence and that
22 is showing how clear it is through the screen. And
23 the upper part above, that is what it did to my
24 windows.

25 BY THE HEARING OFFICER:

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1 Q. Now, Mrs. Oltman do you have anything
2 else? Why don't you hand her the engineering
3 report.

4 (Deposition Exhibit No. 5 marked for
5 identification.)

6 THE HEARING OFFICER:

7 Q. Mrs. Oltman, do you have any other
8 evidence that you wish to present to the Board
9 today?

10 A. Yes.

11 Q. And that is?

12 A. Got to make a correction here.

13 Q. What is it, ma'am?

14 A. No. No. Okay. This is just a sketch.
15 It's not to scale. My husband drew this. This is
16 of our four rooms and -- and the side of our house
17 and the side of Cowans, and then Cowan's house with
18 the air conditioner shown.

19 MR. OLTMAN: Position of the
20 air-conditioner.

21 BY THE HEARING OFFICER:

22 A. Position of the air-conditioner.

23 Q. All right. Now, you've testified to the
24 duration of the alleged noise problem. You've
25 testified to the impact on your enjoyment of your

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1 house.

2 Is there any other aspect of this noise
3 allegation that impacts your life?

4 MR. OLTMAN: Air-conditioner in
5 place, resale. We can't resell.

6 MRS. OLTMAN: What do you mean?

7 MR. OLTMAN: May I speak up?

8 THE HEARING OFFICER: No. I'm
9 asking Mrs. Oltman if she has anything else that
10 she wants to say at this time.

11 BY THE HEARING OFFICER:

12 A. Well, we just have --

13 Q. In terms of --

14 A. -- been denied having any company of any
15 kind. We haven't had any company since they put
16 that air-conditioner in. We can't have anybody.
17 If we do have somebody come, repairman or
18 something, as I stated before, then we have had
19 company come and they said that they just couldn't
20 stand it. They couldn't stay. And that's how bad
21 the noise is.

22 And we cannot live that way. We can't
23 live with an air-conditioner on that side of the
24 house. Noise. We are deprived of having any kind
25 of company. We are deprived of our sleep,

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1 emotionally. And the noise was -- was something
2 else.

3 Now, Cowans probably don't realize what
4 it was doing to us. Now, the neighbors in back of
5 us, they even complained. They thought we had air
6 conditioning, which we didn't. But it was Cowan's
7 air-conditioner that was going along the fence and
8 going into the neighbors. Now, there is not only
9 us but a neighbor across the street. He complained
10 about it too. And they have their windows closed.

11 Q. All right. Well, those neighbors are not
12 present here today --

13 A. No.

14 Q. -- so we will disregard that. Do you
15 recall any -- any times that you've had guests over
16 and they left because of the noise?

17 A. Usually in the fall when, you know, the
18 temperatures are cool enough.

19 Q. Do you recall a specific time that you
20 had?

21 A. Not a specific date, no.

22 THE HEARING OFFICER: Okay. Okay.
23 Thank you, Mrs. Oltman.

24 Mr. Cowan, do you have any questions that
25 you wish to put to Mrs. Oltman?

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1 MR. COWAN: No, not at this time.

2 THE HEARING OFFICER: All right. I
3 will show you these exhibits, Mr. Cowan. Give you
4 the photographs. Turn that up.

5 MR. COWAN: (Complies.)

6 THE HEARING OFFICER: I believe it's
7 like this. That's the engineering report. You've
8 not seen that before, have you?

9 MR. COWAN: No.

10 THE HEARING OFFICER: And this is a
11 scaled drawing.

12 MR. COWAN: These are all their
13 measurements here?

14 THE HEARING OFFICER: From the
15 testimony, that appears to be Mr. Oltman's
16 measurements.

17 MR. COWAN: Okay.

18 THE HEARING OFFICER: I'm going to
19 ask if you have any objections to these being
20 admitted as exhibits?

21 MR. COWAN: No.

22 THE HEARING OFFICER: Okay.
23 Exhibits 1 through 4, the photos are admitted into
24 evidence. The -- Exhibit 6, the sketch,
25 recognizing that it's not drawn to scale,

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1 Mr. Cowan, do you have any disagreement with the
2 way things are designated on the sketch?

3 MR. COWAN: No.

4 THE HEARING OFFICER: All right.
5 And that's admitted. Exhibit 5, I'm going to admit
6 it for a limited purpose, since Mr. Elgin, the
7 noise consultant, is not present to actually
8 testify. I will admit it as notice that you did
9 contact an engineering firm, and for a rather
10 limited purpose.

11 MRS. OLTMAN: Yes. We were about to
12 have the same company, Beling, come out and
13 reevaluate it, when they took out the window
14 air-conditioner.

15 THE HEARING OFFICER: Thank you.
16 Okay. Mr. Cowan, it's -- it is now your turn.

17 TERRY COWAN,
18 called as a witness, after having been first duly
19 sworn, was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY THE HEARING OFFICER:

22 Q. Just for the record, would you state your
23 name again.

24 A. My name is Terry Cowan.

25 Q. You reside at 45 --

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1 A. 10.

2 Q. 10.

3 A. 21st Avenue, Moline.

4 Q. All right. You are familiar -- you are
5 one of the respondents named in this Complaint
6 before the Board?

7 A. Yes.

8 Q. And at this time, you may present a
9 defense to any of the allegations that have been
10 made. If you have a narrative that you wish to
11 give, that's fine. Then I can ask you questions
12 afterwards. So if you would like to do that, that
13 would be fine with me.

14 I don't have any specific questions to
15 run through with you. But if you disagree with any
16 of the statements that were made, you have your own
17 factual information you wish to put into the
18 Board's record, then I would ask that you do so.

19 A. I would just like to mention we got
20 central air, and that's all I can say.

21 Q. Well -- okay.

22 A. All it is --

23 Q. Mr. Cowan, you are not making this very
24 easy.

25 A. All it is is speculation that they are

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1 going by.

2 Q. I understand, sir. Let's back up just a
3 minute. We will try this a little differently.
4 When did you move into the 4510 address?

5 A. July of '93.

6 MRS. OLTMAN: Huh-uh.

7 BY THE HEARING OFFICER:

8 Q. And do you agree or disagree that the
9 window air conditioning was placed into service May
10 of '95?

11 A. I'll agree with that.

12 Q. Do you agree or disagree that you run the
13 air-conditioning unit on a regular basis?

14 A. I disagree with that.

15 Q. And in what way do you disagree with
16 that? Do you dispute --

17 A. As far as running it from August till
18 December or November or whenever they were saying.

19 Q. Okay. Let's start with the summer of
20 '94. You installed the window air conditioning
21 May 22nd, '94. You would generally agree with that
22 date -- specific date?

23 A. Excuse me?

24 Q. Would you agree that you installed the
25 window unit May 22nd of '94?

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1 A. Yes.

2 Q. All right. Beginning May 22nd of '94,
3 could you describe your usage of the unit.

4 A. An off and on basis.

5 Q. Do you recall when you turned it off for
6 the winter?

7 A. September.

8 Q. Do you recall when you removed it for the
9 winter, if you did so?

10 A. It would be in September.

11 Q. Do you recall physically removing the
12 window unit from the window in September of '94?

13 A. Yes.

14 Q. Do you recall when you would have
15 reinstalled it in 1995?

16 A. It would be when it starts getting hot.
17 August. No. Wouldn't be August. I'm sorry. It
18 would be July.

19 Q. Do you agree or disagree that you
20 reinstalled it May the 18th of '95?

21 A. Yes, I agree with that.

22 Q. You would agree with that?

23 A. Yeah.

24 Q. How would you describe your usage of the
25 window unit during the summer and fall of 1995?

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1 A. Full time.

2 Q. Do you recall removing the window unit in
3 the fall of 1995 for the winter?

4 A. Yes.

5 Q. Do you recall what date?

6 A. No.

7 Q. Would you agree that it was -- could
8 possibly have been removed October of '95 for the
9 winter?

10 A. Oh, yeah.

11 Q. Do you recall reinstalling it this
12 summer, 1996?

13 A. Yes. With the smaller unit.

14 Q. And you changed units this summer?

15 A. Just the smaller one, 'cause I knew I was
16 going to get central air.

17 Q. I'm sorry. I couldn't hear you.

18 A. Installed the smaller unit on that side,
19 because I knew I was going to get central air. It
20 was a smaller unit. Only 7,000 BTU.

21 Q. Did you reinstall the 20 -- would you
22 agree or disagree that a unit -- the first unit was
23 20,000 BTU's?

24 A. Yes, I agree with that.

25 Q. And is it correct to say it is -- is a

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1 Montgomery Ward brand?

2 A. Yes.

3 Q. So the summer of '94-'95, you had a
4 20,000 unit in place?

5 A. Yes.

6 Q. And summer of '96, you put in --

7 A. The 7,000 BTU unit.

8 Q. Did you install the larger unit anywhere
9 in your house --

10 A. No.

11 Q. -- for the summer of '96?

12 A. No. I didn't put it in at all.

13 Q. Now, do you agree or disagree that the
14 smaller unit has been removed from your window at
15 this time?

16 A. Yes.

17 Q. Do you recall when you removed that?

18 A. About June.

19 Q. And you have made a statement that you've
20 installed central air conditioning. Is that
21 correct?

22 A. Yes.

23 Q. On what date did you begin installation
24 of the central air-conditioning unit?

25 A. Oh, boy. It was June. June.

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1 Q. Okay. You don't remember the date? June
2 of '96?

3 A. No, I don't.

4 Q. You don't have any receipts or invoices?

5 A. I do have an install date.

6 Q. How long did the installation take?

7 A. Not very long. It took about three, four
8 hours.

9 Q. Complete?

10 A. Yes.

11 Q. Is it -- and so you have a central
12 air-conditioning unit completely installed and
13 operational as of today's date?

14 A. Yes.

15 Q. What size central air-conditioning unit
16 did you have installed?

17 A. Ten Seer.

18 Q. Ten?

19 A. Ten Seer.

20 Q. Could you spell that?

21 A. It's a three ton, ten Seer.

22 Q. I can't understand you, sir.

23 A. It's a three ton, 10 Seer.

24 Q. S-E-A-R (sic)?

25 A. Yes.

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1 Q. You got it from Sears?

2 A. Right. That's what they call it. They
3 call it a ten Seer.

4 Q. All right.

5 A. It is from Sears, though.

6 Q. That's what I was trying to get at, if
7 that's a brand name or a trade designation.

8 A. No. Just a Seer. I don't know what they
9 call it.

10 Q. It's a ten ton rating?

11 A. No. It's three ton.

12 Q. Three ton rated?

13 A. Yes.

14 Q. Does it adequately cool your house?

15 A. Yes.

16 Q. Do you anticipate installing any further
17 air-conditioning units?

18 A. No, I do not.

19 Q. Did the house have existing duct work, or
20 did you have to have duct work installed?

21 A. Yeah. We had to have some duct work
22 installed.

23 Q. What side of the house is the unit on?

24 A. It's on the west side.

25 Q. And that's the opposite side of the

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1 Oltmans?

2 A. Yes.

3 Q. In terms of the 20,000 BTU
4 air-conditioning unit, how would you describe the
5 noise level of that unit?

6 A. Not noisy at all. I had my neighbor
7 next-door come over and listen to it. And they
8 were putting on siding last summer, some people
9 next to us. And they came over and listened to it,
10 and they didn't see any problem with it. But, of
11 course, I don't have those witnesses with me, but
12 it's all hearsay.

13 Q. Now, those are your neighbors to your
14 west?

15 A. Right.

16 Q. Do you recall having any communications
17 with Mr. Oltman concerning the air-conditioning
18 unit?

19 A. Yes.

20 Q. Okay. Do you agree or disagree that you
21 had possibly ten or so conversations with him?

22 A. I would disagree with that.

23 Q. How many times do you remember speaking
24 with Mr. Oltman?

25 A. Twice.

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1 Q. Do you recall the times that you spoke
2 with Mr. Oltman?

3 A. Oh, let's see. I started in August of
4 '95, so it was in '94. Shortly after we moved in,
5 we got it in the window. He come over, asking us
6 to remove it. We purchased the house.

7 Q. Don't -- try to keep the dates sorted out
8 for me. Otherwise, I get confused.

9 A. Okay.

10 Q. You moved in in '93; is that correct?

11 A. '94, I believe. I think it was '94.

12 Q. I'm sorry. When did you move into the
13 house?

14 A. July of '94.

15 Q. Well, that date wouldn't quite be
16 accurate, sir, because you said that you put the
17 unit in in May of '94.

18 A. Why wouldn't it be?

19 Q. You can't move into the house in July of
20 '94 and have already put the air conditioning in
21 in May of '94.

22 A. That's true. So it was probably August
23 then, August of '94 we put it in.

24 Q. You've already agreed that you put it in
25 May 22nd, 1994.

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1 A. May 22nd of what?

2 Q. I said, do you recall putting in the
3 window air-conditioning unit May 22nd, 1994. And
4 you said yes. Is that correct or incorrect?

5 A. Incorrect.

6 Q. It's incorrect?

7 A. Yes.

8 Q. Okay. Why do you say that now? I don't
9 understand that, sir.

10 A. Well, because I'm more confused about
11 this situation more than anything. We moved in and
12 just installed it. That's all I know. Okay. Of
13 '94 -- sometime in '94, we installed the air
14 conditioner. I don't know the exact date.

15 Q. All right. So the one conversation you
16 remember is immediately after the installation you
17 had a conversation with Mr. Oltman?

18 A. Yes.

19 Q. All right. Do you recall when you had
20 the second conversation?

21 A. It was probably a week after the first.

22 Q. And your testimony is that is the only
23 two conversations that you've had?

24 A. Yes.

25 Q. Did you ever contact Montgomery Ward or a

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1 service company concerning the operation of the
2 20,000 BTU unit?

3 A. No, I did not.

4 Q. Did you ever have it serviced during the
5 two years that you had it in?

6 A. No.

7 Q. Did you buy it new, or did you purchase
8 it somewhere else?

9 A. It was used.

10 Q. And it was not in the house when you
11 moved in; is that correct?

12 A. The Frollings did have the
13 air-conditioner when I moved in.

14 Q. The 20,000 unit air-conditioner came as
15 part of the house?

16 A. Right.

17 Q. And who did you purchase it from, the
18 house?

19 A. The Frollings.

20 Q. Could you spell that for the record?

21 A. F-R-O-L-L-I-N-E or G.

22 Q. You don't recall having a conversation
23 sometime in June of 1995 --

24 A. No.

25 Q. -- with Mr. Oltman?

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1 A. I haven't talked to them since before
2 August of '95. That's when I started receiving
3 these letters from Mrs. Oltman.

4 Q. That was my question. And if -- you
5 received the letter -- the first letter August
6 28th, '95. Would you agree with that?

7 A. Right.

8 Q. And you received a second letter November
9 10th, 1995?

10 A. Yes.

11 Q. And you agree with that?

12 A. Yes.

13 Q. And -- and then did you receive service
14 of this Complaint sometime in February?

15 A. No, I did not. I do have something that
16 I did receive.

17 Q. Can I see the face of that?

18 A. (Complies.) Was supposed to contact this
19 person. I tried to get hold of this person, but
20 they -- it was a wrong number.

21 Q. What person are you talking about, sir?

22 A. Adaleen Hogan.

23 THE HEARING OFFICER: Okay. For the
24 record, Adaleen Hogan is the clerk of the Pollution
25 Control Board.

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1 BY THE HEARING OFFICER:

2 Q. Mr. Cowan, the sheriff's office indicates
3 that they handed you a letter. Do you disagree
4 with that?

5 A. No. I don't disagree with that at all.

6 Q. So you did receive service of this
7 Complaint from the sheriff's office?

8 A. It wasn't from the sheriff's office. It
9 was from them (indicating).

10 Q. You weren't handed this letter by a
11 deputy?

12 A. He wasn't in full clothing or anything,
13 no.

14 Q. Do you remember his name?

15 A. No, I don't. He just handed it to me and
16 said, here. That's all.

17 Q. Did he identify himself?

18 A. He just mentioned where he's from. He
19 didn't say --

20 Q. Where did he say he was from?

21 A. Rock Island County Sheriff's Office.

22 Q. So then would you disagree that on
23 February the 14th, 1996, you were served with the
24 Complaint by the sheriff's office?

25 A. I wasn't served with a Complaint. I was

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1 served with a letter from her. All it was was a
2 certified letter.

3 Q. What was in the letter, if you remember?

4 A. Okay. This is the second letter. That's
5 what it would have been. Regarding the noise
6 emission from your property from the window
7 air-conditioner on the east side of your house.
8 Violation caused by your window air-conditioner
9 unit facing our bedroom and living quarters.

10 Q. All right. You don't need to read it any
11 further. That's the November 10th letter?

12 A. Right. That was the second letter.
13 That's when I got the certified letter or, you
14 know, it was from the sheriff's office.

15 Q. All right. But the piece of paper you
16 held up earlier that had the name of Adaleen Hogan
17 on it --

18 A. Yes.

19 Q. -- how did you get that?

20 A. That was through her. One of her letters
21 or envelopes. And what it was is I was supposed to
22 contact this person. And that's all I know.

23 Q. Okay.

24 A. I tried doing that.

25 Q. You received a copy with this cover sheet

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1 on it, did you not --

2 A. Yes.

3 Q. -- that I'm holding up?

4 A. Yes.

5 THE HEARING OFFICER: And for the
6 record, I was holding up the formal complaint.

7 BY THE HEARING OFFICER:

8 Q. Okay. Mr. Cowan, in response to the two
9 conversations with -- that you say you've had with
10 Mr. Oltman, did you take any steps concerning your
11 air-conditioner?

12 A. Yes. I told them that I would try and
13 shut it off at night as best I could, and until
14 they had called our house and told asked us when we
15 were going to shut that off. We -- just we didn't
16 shut it off. You know, we are not going to let
17 somebody come in there and tell us what to do. We
18 don't think that's fair. We don't go over there
19 and tell them what to do on their property, you
20 know.

21 Q. Did you investigate moving the unit to
22 another window?

23 A. No, I did not. It's well within my
24 property.

25 Q. Okay. Mr. Cowan, I don't believe I have

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1 any further questions that I can pose to you. If
2 you have any other factual evidence that you want
3 to present to the Board, you may do so.

4 A. The only thing I have is that the central
5 air unit is in place. We don't have plans to put
6 in a window air-conditioner. We have taken care of
7 the noise problem that they are insisting we have.
8 Okay. So that's the only thing I have to say.

9 Q. Okay. You do not have any -- you said
10 you don't have the invoice or receipt for
11 installation of the unit?

12 A. Yes. I have the receipt for that.

13 Q. May I see it.

14 A. Yes.

15 THE HEARING OFFICER: Let the record
16 reflect that Mr. Cowan has handed me a receipt and
17 estimate from the Sears Roebuck Company concerning
18 installation of a Kenmore 2.5 ton, ten Seer,
19 S-E-E-R, air-conditioning unit. And it appears
20 that the date of sale was 7-1-96.

21 BY THE HEARING OFFICER:

22 Q. Installed by Valley Heating; is that
23 correct?

24 A. Yes.

25 THE HEARING OFFICER: Okay. Okay.

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1 Thank you, Mr. Cowan. If you have nothing else to
2 testify to, Mr. Oltman and Mrs. Oltman, did you
3 have any questions you wish to ask of Mr. Cowan?

4 MRS. OLTMAN: Well, the only thing I
5 can say is that Mr. Cowan moved in in March.

6 THE HEARING OFFICER: No. No. No.

7 MRS. OLTMAN: No. Okay.

8 THE HEARING OFFICER: If you have --
9 it's call cross-examination. If you have any
10 questions --

11 MRS. OLTMAN: Okay.

12 THE HEARING OFFICER: -- that you
13 wanted to ask of him, you may do so, relating to
14 what I've asked or what Mr. Cowan has said this
15 morning.

16 MRS. OLTMAN: Okay. Do you have
17 any?

18 MR. OLTMAN: (Shakes head.)

19 MRS. OLTMAN: I have nothing to ask
20 Mr. Cowan. I have never spoke to Mr. Cowan before.

21 THE HEARING OFFICER: That's fine.
22 This is just the way this proceeding runs.

23 MRS. OLTMAN: But what I mean is
24 Doug is the one that -- my husband, Douglas, is the
25 one that talked to him.

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1 THE HEARING OFFICER: It doesn't
2 necessarily matter that either one of you have
3 spoken with either one of anyone before today.

4 Cross-examination is part of our
5 procedure in terms of if he said something which
6 you want to clarify or ask about. That's what it's
7 for.

8 MRS. OLTMAN: Yeah. One thing I'd
9 like to ask Mr. Cowan. I think he was mistaken
10 when he moved in. He moved in in March of '94.
11 And they put the air-conditioner, as I quoted, in
12 May the 22nd of 1994. That was -- I know that,
13 'cause I have -- I'm very observant mostly of what
14 goes on. Everybody has to be nowadays for their
15 own property.

16 And -- but as far as anything else I have
17 to say to Mr. Cowan, no.

18 THE HEARING OFFICER: Mr. Cowan,
19 apparently the question has been posed. Do you
20 recall when you moved into the house?

21 MR. COWAN: Yes. We moved in in
22 July. Our closing was in July of '94.

23 THE HEARING OFFICER: Of what year?

24 MR. COWAN: July of '94.

25 THE HEARING OFFICER: Are you

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1 positive about that date, sir?

2 MR. COWAN: No. I'm not for sure.

3 But it should be pretty close.

4 MRS. OLTMAN: When Mr. Cowan moved
5 in, it was -- no.

6 THE HEARING OFFICER: There is
7 nothing pending.

8 MRS. OLTMAN: Sorry.

9 MR. COWAN: It could have been '93,
10 but I don't have that with me, when our closing
11 was.

12 THE HEARING OFFICER: Okay.
13 All right. Mrs. Oltman, Mr. Oltman, any further
14 testimony, any further statements you wish to
15 make?

16 MRS. OLTMAN: Yes. One thing I'd
17 like the Board to consider would be that Mr. Cowan
18 does not put any window air conditioners on that
19 east side of their house, west side of our house.
20 And we also would like to make a statement as we do
21 not want anymore rocks that -- on our roofs, and
22 only Cowans can get to our roof -- roof where the
23 rocks and that. And I have one with me. I
24 couldn't bring everything.

25 MR. COWAN: Excuse me. This doesn't

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1 have anything to do with this case. They cannot --

2 MRS. OLTMAN: It's retaliation.

3 MR. COWAN: They are expecting of
4 us --

5 MRS. OLTMAN: Not expecting. We
6 know. We had a real severe roof leak on our -- we
7 have a flat roof.

8 MR. COWAN: This is all hearsay.
9 You cannot bring this into evidence. We are here
10 for a window air-conditioner.

11 MRS. OLTMAN: Right.

12 THE HEARING OFFICER: Thank you,
13 Mr. Cowan. Thank you, Mrs. Oltman. It's not
14 hearsay, but it is not relevant to the
15 air-conditioning unit.

16 MRS. OLTMAN: Right. But it's
17 retaliation to us talking to Mr. Cowan.

18 THE HEARING OFFICER: Well, there
19 is -- there is no -- there is no pending allegation
20 of any type of harassment or intimidation and that.
21 The only thing --

22 MR. COWAN: You know, I feel that we
23 are being harassed by all these letters. You go on
24 and looking around her house, telling us what we
25 are doing when we are doing it. This doesn't

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1 make -- half this stuff doesn't make any sense.
2 I'm sure -- I'm sure, like, the Board here, they
3 should look at this as, like, stupid. I took it
4 down to a lawyer, and he's, like, this is -- this
5 is crazy, these people are nuts.

6 Well, I'm sorry. I don't think you are
7 nuts. I just feel that, you know, hey, we are
8 trying to live our life the way we want and be -- I
9 work in a bakery. Where do you work? They have a
10 central air unit that is covered up in plastic.
11 They don't use it. It's on the same side that my
12 window air-conditioner was.

13 MRS. OLTMAN: It's not working. It
14 hasn't worked for 21 years.

15 MR. COWAN: Yeah.

16 THE HEARING OFFICER: Mr. Cowan is
17 making a statement.

18 MR. COWAN: Right.

19 THE HEARING OFFICER: Please don't
20 interrupt.

21 Mrs. OLTMAN: But --

22 THE HEARING OFFICER: I said, please
23 don't interrupt.

24 MRS. OLTMAN: Okay.

25 MR. COWAN: They have a fence that

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1 is going down their line that should stop some of
2 the noise. There is a fence that is 15 foot high
3 that goes up the side of her house that we ain't
4 supposed to look at what they are doing. You
5 understand what I'm saying? No neighbor likes them
6 in the area, excuse me to say, but I've talked to
7 them all.

8 THE HEARING OFFICER: Okay.
9 That's -- that's irrelevant to this proceeding.

10 MR. COWAN: Right. I understand.
11 Okay.

12 THE HEARING OFFICER: All right.
13 Okay. I think that unless -- I think that it
14 sounds like everyone has been able to put forth the
15 testimony that they want. I don't see any real
16 reason for closing briefs. So we will close the
17 record, and the Board will issue an Opinion and
18 Order in the near future, and you will both be
19 served a copy of it. Thank you very much.

20 MR. COWAN: Thank you.

21 (Proceeding concluded at 11:23 a.m.)

22

23

24

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CERTIFICATE

3

4 I, VICTORIA FICKEL, a Certified Shorthand
5 Reporter of the State of Illinois, Notary Public of
6 the County of Rock Island, do hereby certify that I
7 was authorized to and did report in shorthand the
8 above and foregoing proceedings and that thereafter
9 my shorthand notes were reduced to computer-aided
10 transcription under my supervision and direction,
11 and that the Transcript of Proceedings is a true
12 record of the testimony given and of all objections
13 interposed.

13

14 I further certify that I am neither
15 attorney or counsel for, nor related to or employed
16 by any of the parties to the action in which this
17 proceeding is taken, and further, that I am not a
18 relative or employee of any attorney or counsel
19 employed by the parties thereto or financially
20 interested in the action.

20

21

Dated at Moline, Illinois this 31st day
of July, 1996.

22

23

Victoria Fickel

24

Certified Shorthand Reporter

25

License #084-003220