

AFFIRMATIVE DEFENSE RESPONSE

RECEIVED
CLERK'S OFFICE

OCT 27 2005

John & Linda Maracic

STATE OF ILLINOIS
Pollution Control Board

Complainant

Vs.

PCB 05-212
(Citizens Enforcement ~ Noise)

TNT Logistics North America Inc.

Respondent

To: Ms. Dorothy M. Gunn
Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

Bradley P. Halloran, Esq.
Hearing Officer
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

(SENT VIA CERTIFIED MAIL TO MS. DOROTHY M. GUNN)

Please take notice that We, John & Linda Maracic, have filed with the Office of the Clerk of the Illinois Pollution Control Board a Complainants' Response to the Affirmative Defense to the Respondent's Answers.

Respectfully submitted,

John & Linda Maracic
Complainants'

Dated: October 20, 2005

John & Linda Maracic
6512 Lakeway Drive
Monee, Illinois 60449
708-534-7587

RECEIVED
CLERK'S OFFICE

OCT 27 2005

STATE OF ILLINOIS
Pollution Control Board

AFFIRMATIVE DEFENSE ANSWERS FROM
TNT LOGISTICS NORTH AMERICA INC.

1. TNT operates the Facility in order to warehouse & distribute tires.
2. Trucks deliver trailers of tires to the Facility.
3. TNT does not own or operate these trucks.
4. Trucks also transport trailers of tires from the Facility.
5. TNT does not own or operate these trucks.
6. Complaints in part appear to allege that noise from these trucks, which TNT does not own or operate, has, at Complainants' property, violated the numeric noise limitations cited by Complainants in paragraph five of their complaint.
7. TNT has no evidence that this is the case.
8. However, if this is the case, such alleged violations relating to trucks which TNT does not own or operate do not constitute violations of the numeric noise limitations by TNT.

1. TNT does operate the Facility in order to warehouse & distribute tires & in order to do so trucks & trailers are moved around the property making excessive noise when doing so.
2. Trucks are delivering trailers of tires to the Facility on a 24 hour a day/7 day a week basis making excessive noise while doing so.
3. Although TNT does not own or operate the trucks or trailers, they do own the Facility & the property where the noise is being emitted from. Also, TNT does own & operate the toter truck that is used on a constant basis moving the trailers to & from the loading docks for loading & unloading.
4. Trucks are transporting trailers of tires from the Facility on a 24 hour/7 day a week basis making excessive noise while doing so.
5. Although TNT does not own or operate the trucks or trailers, they do own the Facility & the property from which the trucks & trailers are leaving from & in the process of doing so excessive noise is being emitted from the Facility on a constant basis.
6. TNT does own the Facility & the property from which the noise is being emitted from. The noise is being emitted over the boundaries of their property into residential property. This is stated in The Environmental Protection Act, Title VI: Noise, Sec. 24. No person shall emit beyond the boundaries of his property any noise that unreasonably interferes with the enjoyment of life or any lawful business or activity, so as to violate any regulation or standard adopted by the Board under this Act.
7. We, the Complainants', have sufficient evidence to uphold our alleged allegations. We have a sound study which was conducted by Roger Harmon, a BSEE, PE ~ noise engineer & Dr. Tom Thunder, a AuD, FAAA, INCE ~ expert in audiology & acoustics, both working for Acoustic Associates, Ltd. This study clearly shows a noise violation by TNT according to the Village of Monee's' sound ordinance. As well as the noise exceeding

Monee's' ordinance levels, it also exceeds the State of Illinois' levels. Besides the sound results, TNT is in violation of the Environmental Protection Act, Title VI: Noise, Sec. 23. ...It is the purpose of this Title to prevent noise which creates a public nuisance. Also, to uphold our alleged allegations we have police reports which were done by the Village of Monee over a two week basis stating that there is sufficient & excessive noise coming from TNT.

8. Stated in The Environmental Protection Act, Title VI: Noise, Sec. 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. We, the Complainants', fully stand behind our allegations & feel that The Environmental Act, Title VI: Noise, Sec. 24 & Sec. 25 are being violated by TNT.

Respectfully
submitted,

John & Linda Maracic,
Complainants'