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November 10, 2005

VIA FACSIMILE AND U.S. MAIL

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 W. Randolph Street
Chicago, Illinois 60601

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NOV 10 2005

STATE OF ILLINOIS
Pollution Control Board

Re: *York High Neighborhood Committee v. Elmhurst Public Schools, District 205*
(PCB 05-93)

Dear Officer Halloran:

In the status hearing of September 15, and in the Order of September 16, the parties were directed to submit a written status report. Based on your comments at the last status conference and in view of the face of the September 16th Order, it appeared that you wanted the parties to confer and jointly prepare and submit a status report for purposes of efficiency. With that in mind, I sent the Complainants a proposed joint report, but they declined my offer to submit a joint status update. The "Status Report" the Complainants have submitted is replete with arguments and does not appear to reflect the sort of status update the parties were directed to provide.

As another initial matter, it is worth noting that the September 16th Order correctly provides that the parties agreed that the District would order and install low sound fan blades in order to resolve this action. The District agreed upon this course of action based on repeated assurances it received from the architect that will be involved in the implementation of the low sound fan blade package that this course of action will resolve the issues around which the Complaint in this matter revolve. Based on the architect's estimates of the costs of various methods of sound-attenuation, it is readily apparent that this is the most cost-effective and sensible means of resolving this action.

Contrary to the Complainants' assertions in their "Status Report," this measure cannot accurately be characterized as an "experiment." Indeed, the District provided

Complainants with a copy of the architect's report containing assurances that this measure would effectively resolve the issues addressed in the Complainants' Complaint. Moreover, the District invited the Complainants to attend – and the Complainants did in fact attend – a number of meetings with the architect where the effectiveness and cost of the low sound fan blade option were discussed at length. The District has been given no reason to doubt the architect's assurances that the low sound fan blades will be effective. However, in the spirit of cooperation, the District informed Complainants that in the unlikely event that this measure does not prove to be effective, it is willing to consider other cost-effective methods of sound attenuation.

As the District informed the Complainants, it has started the process of instituting this measure in order to resolve this action. As the District informed Complainants a while ago, it learned after receiving the September 16th Order that it needed to open the implementation of the low sound fan package to public bidding. To this end, the architect then published an advertisement for bids on the District's behalf. Due to potential bidders' need for sufficient time to complete their respective estimates, bidding is set to close on November 14. The District remains hopeful that the Board of Education will ratify the lowest bid as soon as practicable and that the implementation process will commence immediately thereafter.

Lastly, the District has continued to voluntarily cease its operation of the chillers at issue in the Complaint from 10:00 p.m. through 7:00 a.m. Again, the interests of safety and prudence require the District to monitor the impact of this change for a reasonable period of time.

Very truly yours,

/s/ Steven J. Pearlman
Steven J. Pearlman

cc: Joe Vosicky, Esq.
David Bennett, Esq.

David E. Bennett
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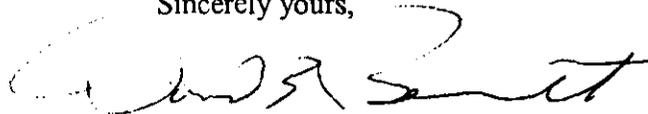
Bradley P. Halloran, Esq.
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601

**Re: York High Neighborhood Committee, et al. v. Elmhurst Public Schools,
District 205
Case No. PCB 05-93**

Dear Mr. Halloran:

Attached please find the Complainants' Status Report regarding the above-noted matter.

Sincerely yours,



David E. Bennett

cc: Steven J. Pearlman, Esq.
Joseph F. Vosicky, Esq.
Mr. Peter Conroy
Mr. & Mrs. Fred Hodges

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

YORK HIGH NEIGHBORHOOD
COMMITTEE (a voluntary organization)
Janet and Fred Hodge, Patricia and David
Bennett, Sheila and Mike Trant, Joe Vosicky,
Jean and Peter Conroy, Frank Soldano,
Joseph Reamer, Elizabeth and Charles
Laliberte

and

ELMHURST PUBLIC SCHOOLS,
DISTRICT 205

Case PCB 05-93
(Citizen's Enforcement-Noise)

STATUS REPORT

Pursuant to an order of the Hearing Officer dated September 16, 2005, the Complainants submit this Status Report concerning the proposed disposition of this case.

Status Report

1. This status report covers a period beginning with the filing of the complaint on November 15, 2004 and ending November 10, 2005.
2. During the relevant period, the parties met numerous times and held various discussions concerning this matter.
3. On August 11, 2005 the members of the Complainants committee met with representatives of the Elmhurst School District 205, their lawyer, and their architect, Wight & Company. The purpose of the meeting was to discuss the findings of the sound survey performed for the architect by Shiner & Associates (letter dated July 27, 2005) and to discuss options proposed by the architect (letter dated July 27, 2005) to bring the sound levels of the cooling towers into compliance with State regulations.

4. The sound surveys performed for the Respondent by Shiner & Associates agreed almost exactly with the surveys performed by the Complainants' sound consultant and supported the complaint that the current noise levels exceed the regulations of the State of Illinois.

5. The Respondents have introduced cost as a factor in selecting mitigation alternatives. The Claimants have acknowledged their interest in minimizing costs to the taxpayers of the District but have reminded the Respondent that the architect, in the school construction permit application, certified that all work will be completed in accordance with all applicable laws and regulations. The District's contract with the architect should have required conformance in accordance with the construction permit.

6. To bring the cooling towers into compliance with the **nighttime limits**, the Respondent proposes to not operate the cooling towers at night (between 10:00 p.m. and 7:00 a.m.). The Respondent expressed a caveat that if moisture or mold in the school resulted, they would have to operate the cooling towers at night to prevent its development. Operation of the cooling towers at night, therefore, would be at the discretion of the Respondent. In the previous three years of operation the Complainants observed numerous instances of operation of the cooling towers during nighttime hours. In some instances, during high demand, the cooling towers operated continuously throughout the nighttime hours.

7. Without the cooling towers being in compliance with the nighttime limits, if they were operated at night, they would violate the Illinois regulations. The Respondent has been informed by the Complainant that since this option is not a permanent solution it is not acceptable to the Complainants.

8. To bring the cooling towers into compliance with the **daytime limits** the Respondent proposes a staged development of: 1) changing the fans to low sound fans,

determining its effectiveness; and then 2) adding intake/exhaust attenuation equipment, if additional attenuation is needed; then 3) installation of a barrier wall if the foregoing alternatives are unsuccessful. The Respondent committed to installing the low sound fans and estimated it would require 6 to 8 weeks from the meeting of August 11, 2005 to implement the installation.

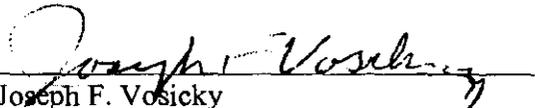
9. The Complainants have informed the Respondents that the proposed staged option for compliance that is limited to compliance with day time limits is likely to prolong, not shorten this proceeding, and therefore is not acceptable to Complainants. Complainants view the changing of the fan blades as an experiment to determine if their installation will bring the cooling towers into compliance with daytime limits only. Neither the District's architect or sound engineer will certify that this action will bring the cooling towers into compliance. Complainants cannot enter into a final settlement agreement based upon such an experimental solution, where the District's consultants will not even vouch for its efficiency.

10. The Respondents have been informed that the position of the Complainants is that the cooling towers should be brought into compliance with all the State regulations, both day and night. This compliance would have to be permanent and not subject to future review or modification.

11. In order to reach resolution of this matter, the District should comply fully with nighttime and daytime limits required by the law by May 1, 2006, the beginning of the next cooling season.

York High Neighborhood Committee

By: 
David E. Bennett
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By: 
Joseph F. Vosicky
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