

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

MAREK KRUK	)	
	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 2020-010
	)	
NEW TRIER HIGH SCHOOL	)	
DISTRICT NO. 203,	)	
	)	
Respondent.	)	
	)	

**RESPONDENT’S ANSWERS TO COMPLAINANT’S REQUESTS TO ADMIT**

NOW COMES, Respondent, New Trier High School District No. 203 (the “District”), by and through its attorneys, Robbins Schwartz, Nicholas, Lifton and Taylor, Ltd, and hereby responds to Complainant’s Requests to Admit as follows:

1. The Kruk property is now subjected and exposed to numerous sources of noise pollution that did not exist on Woodland Ave before the new addition was added to the New Trier High School, Winnetka Campus, in 2017. Prior to that, the Kruk property was shielded from noise generated on the school property by the old music building that was demolished.

**Answer:** Respondent objects to this request on the grounds that it is impermissibly compound. As written, the request asks Respondent to admit to two separate sentences. Additionally, this request is vague and ambiguous as to the phrase “Kruk property,” the term “subjected to” and “new addition” and the limitation of “now.” Subject to and without waiving the aforementioned objections, Respondent answers as follows: Respondent is unaware of all potential sources of noise pollution and is unaware of the noise level at the “Kruk property” immediately prior to the new addition to the New Trier High School, Winnetka Campus and therefore lacks sufficient information to admit or deny this request. Additionally, Respondent lacks sufficient

information to admit or deny that “prior to [2017], the Kruk property was shielded from noise generated on the school property by the old music building that was demolished.”

2. The district was presented with noise expert reports that indicated dust collector exceeded Illinois daytime limits in multiple frequency bands.

**Answer:** Respondent objects to this request on the grounds that it is not limited in time or scope, it is vague and ambiguous as it does not specify the “Illinois daytime limits” requested, and it seeks information that is not relevant to any party’s claim or defense and/or proportionate to the needs of the case. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Denied to the extent that the district received noise expert reports which measured noise emitted by the dust collector that did not strictly comply with the measuring techniques listed in 35 Illinois Administrative Code §910.105 and therefore cannot indicate noise in excess of Illinois limits.

3. The district started operating the dust collector in the fall of 2017. The HEPA filters were installed in the collector in the spring on 2018.

**Answer:** Respondent objects to this request on the grounds that it is impermissibly compound. As written, the request asks Respondent to admit to two separate sentences. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Respondent admits that it started operating the dust collector in the fall of 2017 and that it installed HEPA filters in the spring of 2018.

4. The district has acknowledged that the dust collector operated above allowable limits and had full knowledge that the noise reports produced by the experts indicated “that Illinois daytime limits are exceeded in the 250 Hz and upper frequency bands” as reported by Shiner Acoustics report dated 08/15/2018.

**Answer:** Respondent objects to this request on the grounds that it is not limited in time or scope and vague as to the terms “has acknowledged,” “allowable limits,” and “full knowledge” and to the extent that it calls for a legal conclusion regarding the same. Additionally, this request

seeks information that is not relevant to any party's claim or defense and/or proportionate to the needs of the case. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Denied to the extent that the Shiner Acoustics report dated 8/15/2018 did not strictly comply with the measuring techniques listed in 35 Illinois Administrative Code §910.105, and therefore the District was unaware of the legal extent of the noise emitted from the dust collector both after subsequent noise remediation efforts and after realization that the 8/15/2018 Shiner Acoustics report was non-compliant with §910.105. The district admits that the language quoted in Request to Admit No. 4 is contained in the non-compliant Shiner Acoustics report dated 8/15/2018.

5. The district has stated: "The School District made remedial efforts after Mr. Kruk's complaints until noise measurements evidenced compliance with noise emissions levels" see district answer to question #10 of the first set of complainant's interrogatories.

**Answer:** Respondent objects that this request is vague and ambiguous as to what it calls for Respondent to admit. Subject to and without waiving the aforementioned objection, Respondent answers as follows: Respondent admits that it stated "The School District made remedial efforts after Mr. Kruk's complaints until noise measurements evidenced compliance with noise emission levels" in response to Complainant's Interrogatory No. 10.

6. To date, neither the district, nor any of their representatives, have produced any report of numeric testing of noise emissions at the Kruk property which conforms to the procedures outlined in Section 900.103 and Section 910.105 of Title 35 of the Illinois Administrative Code regarding Environmental Protection, and which evidences a compliance of the Pollution Control Board's noise regulations at Section 901.102(a) and (b)(35 Ill. Adm. Code 901.102(a), (b)).

**Answer:** Respondent objects to this request on the grounds that it is not limited in time or scope, it calls for a legal conclusion, it is vague as to the term "Kruk property" and to the extent that it is impermissibly compound. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Admit.

7. The New Trier High School Assistant Superintendent, Christopher Johnson admitted to the complainant, Marek Kruk in a letter dated 04/03/2019 that the district was evaluating dust collector noise mitigating options that will put them in compliance with the standard. This letter was also sent to New Trier High School Superintendent Paul Sally and Board of Education President, Greg Robitaille.

**Answer:** Respondent objects to this request to the extent that it is impermissibly compound, as it asks Respondent to admit to Christopher Johnson's alleged admission that the District was evaluating noise mitigating options and to the extent it asks Respondent to admit that the letter was sent to Paul Sally and Greg Robitaille. This request is vague and ambiguous as to whether it is asking Respondent to admit the noise mitigation options would put them in compliance with the standard or whether it is asked to admit Christopher Johnson specifically admitted that the noise mitigating options would put them in compliance with the standard. Additionally, this request calls for the legal conclusion as to whether Christopher Johnson's letter is an "admission." Subject to and without waiving the aforementioned objections, Respondent answers as follows: Admit.

8. The district Director of Physical Plant, David Conway had verbally disclosed to the complainant, in a meeting with Village of Winnetka Community Development Director and Assistant Director present, that the district did in fact receive a sound report that indicated that the dust collector operated above allowable limits. He also noted in the same meeting that the district administration was also aware that the dust collector continued to operate, despite having learned that it exceeded Illinois daytime limits in the 250 Hz and upper frequency bands. David Conway further assured that the dust collector only exceeded Illinois daytime limits by a few decibels and only in several octaves. Kruk renewed his request for a copy of the report.

**Answer:** Respondent objects to this request to the extent that it is impermissibly compound, to the extent that it asks Respondent to admit: (1) David Conway verbally disclosed to Complainant that the district received a sound report that indicated the dust operator operated above allowable limits; (2) David Conway noted the district administration was aware the dust collector continued to operate despite knowing it exceeded Illinois daytime limits; (3) David Conway assured that the dust collector only exceeded Illinois daytime limits by a few decibels; (4) David Conway assured that the dust collector only exceeded Illinois daytime limits in several octaves; and (5)

Complainant renewed his request for a copy of the report. Respondent additionally objects to this request on the grounds that it seeks information that is not relevant to any party's claim or defense and/or proportionate to the needs of the case. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Admit.

9. The district did not send the requested report to Kruk until 04/03/2019 and continued operating the dust collector despite having made admissions that they possessed the knowledge that it operated above allowable limits. The initial sound test measurements were conducted on 05/31/2018.

**Answer:** Respondent objects to this request to the extent that it is impermissibly compound, to the extent that it asks Respondent to admit: (1) the district sent the requested report to Complainant on 4/3/19; (2) the dust collector operated above allowable limits; (3) the district operated the dust collector despite knowing that it operated above allowable limits; (4) the initial sound test measurements were conducted on 5/31/18. Respondent additionally objects this request on the grounds that it seeks information that is not relevant to any party's claim or defense and/or proportionate to the needs of the case and calls for a legal conclusion. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Respondent admits that the first of two sound measurements contained in the August 15, 2018 Shiner Acoustics report were taken on May 31, 2018, admits to sending Kruk a courtesy copy of the report on April 3, 2019, and admits to operating the dust collector after subsequent noise remediation efforts. Request to Admit No. 9 is denied to the extent that the District incorrectly believed the August 15, 2018 Shiner Acoustic report to be compliant with measurement techniques required by Illinois law.

10. The district operates the dust collector for several hours a day, Monday through Saturday all year round to include summer breaks.

**Answer:** Respondent objects to this request on the grounds that it is not limited in time or scope and is vague and ambiguous as to the phrase "several hours a day." Subject to and without waiving the aforementioned objections, Respondent answers as follows: Respondent admits to

operating the dust collector when school and summer school are in session and when projects necessitate it.

11. The Board of Education was involved in the process of approving expenditures for noise mitigation measures to include erecting of the noise barrier wall for the dust collector.

**Answer:** Respondent objects to this request on the grounds that it is not limited in time or scope and is vague and ambiguous as to the term “involved.” Subject to and without waiving the aforementioned objections, Respondent answers as follows: Admit.

12. The district uses the new service dock 24/7 to dispose of trash, and for night shift custodial activity among other activities. The trash is thrown into the dumpsters/compactors and compactors are operated to crush items thrown into them during the night hours between 10PM and 7AM.

**Answer:** Respondent objects to this request on the grounds that it is not limited in time or scope and is vague and ambiguous as to the terms “new,” “custodial activity,” and “other activities.” Additionally, Respondent objects to this request as being impermissibly compound, as it asks Respondent to admit: (1) the District uses the service dock 24/7 to dispose of trash; (2) the District uses the service dock for night shift custodial activity; (3) the District uses the service dock for other activities; (4) the trash is thrown into the dumpsters/compactors; (5) the compactors are operated to crush items during the hours of 10:00 p.m. and 7:00 a.m.. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Deny. Respondent does not operate the dumpsters/compactors between the hours of 7:00 p.m. and 7:00 a.m.

13. The district has received numerous videos showing loud, night time noise activity and disposing of trash in the service dock as well as loud compactor operation since the new building was erected in 2017. Most recent video showing this night time disturbance at 2AM was sent to the district in September of 2022, after the district posted signage “to keep noise to a minimum” and “No noise after 7PM” in 2021.

**Answer:** Respondent objects to this request on the grounds that it is not limited in time or scope and is vague and ambiguous as to the terms “numerous,” and “loud.” Additionally, Respondent objects to this request as being impermissibly compound, as it asks Respondent to

admit to multiple assertions and sentences. Respondent additionally objects to this request on the grounds that it seeks information that is not relevant to any party's claim or defense and/or proportionate to the needs of the case and calls for a legal conclusion. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Respondent is unable to adequately answer due to the vague wording of the request for admission, however, Respondent replaced the compactors with different models, moved the motors inside the building in order to reduce noise, and does not operate the compactors between the hours of 7:00 p.m. and 7:00 a.m. Respondent admits that it has received various videos from Kruk which do not contain quantitative sound measurements.

14. The district runs the kitchen fan/rooftop unit during the night hours between 10PM and 7AM and on the weekends.

**Answer:** Respondent objects to this request on the grounds that it is not limited in time or scope and is vague and ambiguous as to the term "rooftop unit." Subject to and without waiving the aforementioned objections, Respondent answers as follows: Deny. Respondent begins cooking for 3000 people at approximately 4:30 or 5:00 a.m. during the week and only uses the kitchen fan/rooftop unit on the weekends if there is a special event.

15. The district hired a mechanical engineer who advised them on noise reducing measures that can be taken to further reduce the noise. The district was advised by this engineer that they can reduce the "noise from the rooftop equipment by removing the 13 sound shields that attach to the equipment and have a custom unistrut frame made that will attach to the roof curb and not make contact with the equipment."

**Answer:** Respondent objects to this request on the grounds that it is not limited in time or scope and it is impermissibly compound. Respondent additionally objects to this request on the grounds that it seeks information that is not relevant to any party's claim or defense and/or proportionate to the needs of the case. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Respondent admits that it hired a mechanical engineer

who advised them of noise reducing measures, however, the sound engineer retained by Respondents informed them that the work the mechanical engineer requested would have little to no effect on the sound noise.

16. The district had taken delivery of heavy HVAC chiller equipment in December of 2022 for the new east side addition being currently built. This equipment was installed in the basement of the building facing Woodland Ave - on the west side of the school campus, south of the service dock (in front of Kruk property). See Picture below.

**Answer:** Respondent objects to this request on the grounds that it is vague as to the term “Kruk property.” Respondent additionally objects to this request on the grounds that is impermissibly compound, it seeks information that is not relevant to any party’s claim or defense and/or proportionate to the needs of the case. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Respondent admits that in December 2022 it received delivery of HVAC chiller equipment, but denies the location as described. The new, smaller unit was installed on the north side of the building in the basement.

17. The trucks servicing New Trier High School park daily on Woodland Ave with engines idling for extended periods of time. When unable to enter the service dock, the delivery trucks unload while being parked on Woodland Ave. Loud impulsive noise is heard throughout the day when garbage trucks drop the compactors onto the dock floor and delivery trucks drop pallets and other items. The noise is amplified by echo chamber like characteristics of the service dock.

**Answer:** Respondent objects to this request on the grounds that it is not limited in time or scope and it is vague as to the phrases “expended periods of time,” “loud impulsive noise,” “other items,” “throughout the day,” and “echo chamber like characteristics.” Respondent objects this request on the grounds that is impermissibly compound, as it asks Respondent to admit to the following: (1) trucks servicing the high school park daily on Woodland Ave., (2) trucks servicing the high school park with their engines idling; (3) trucks servicing the high school park idling for extended periods of time; (4) the delivery trucks unload while parked on Woodland Ave.; (5) trucks drop items onto the dock floor; (6) throughout the day; (7) resulting in loud, impulsive noise; (8)



the noise is amplified by echo chamber like characteristics of the service dock. Additionally, Respondent objects to this request as it seeks information that is not relevant to any party's claim or defense and/or proportionate to the needs of the case and calls for a legal conclusion. Subject to and without waiving the aforementioned objections, Respondent answers as follows: Respondent lacks sufficient information to admit or deny Request to Admit No. 17 regarding the actions of vendor trucks throughout the day and denies Request to Admit No. 17 to the extent that respondent has communicated to all vendors that they are not permitted to park and unload on Woodland Ave. Respondent further denies that vendor trucks drop the compactors onto the dock floor.

Respectfully Submitted,

NEW TRIER HIGH SCHOOL  
DISTRICT NO. 203

By:           /s/ Kenneth M. Florey            
          One of its Attorneys

Dated: April 21, 2023

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**VERIFICATION**

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that he is the Facilities Manager, that he has read the forgoing School District's Responses to Complainant's Requests to Admit, and that the statements set forth in the School District's Response are true and correct, except as to matters therein stated to be on information and belief, and as to such matters, the undersigned certifies as aforesaid that he verily believes the same to be true.

NEW TRIER HIGH SCHOOL DISTRICT NO. 203

By:   
Steve Linke

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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DISTRICT NO. 203,	)	
	)	
Respondent.	)	
	)	

**CERTIFICATE OF SERVICE BY ELECTRONIC MAILING**

TO: See attached service list.

I hereby certify that I electronically sent a copy of the following documents:

- Respondent’s Answers to Complainant’s Request to Admit

with this Certificate of Service via electronic mail to all parties listed on the service list this 21<sup>st</sup> day of April 2023.

Respectfully Submitted,  
 NEW TRIER HIGH SCHOOL DISTRICT  
 NO. 203

By:           /s/ Kenneth M. Florey            
 One of its Attorneys

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## Service List

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[MarekKruk@hotmail.com](mailto:MarekKruk@hotmail.com)

Illinois Pollution Control Board  
Attn: Don Brown – Clerk of the Board  
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Chicago, IL 60601  
[Don.brown@illinois.gov](mailto:Don.brown@illinois.gov)