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ILLINOIS POLLUTION CONTROL BOARD

ANGELA GRIFFIN AND MICHAEL GRIFFIN	)	
COMPLAINANTS,	)	PCB 2026-042
v.	)	
KNIGHT HAWK COAL, LLC,	)	
RESPONDENT.	)	

RESPONDENT'S MOTION TO STRIKE

NOW COMES Respondent, Knight Hawk Coal, LLC, by and through its attorney Reed & Heller LLC, and pursuant to 35 Ill. Adm. Code 101.500 and 735 ILCS 5/2-615, respectfully moves the Hearing Officer to strike the photographs and annotated attachments (collectively "Attachments"), in Complainant's Formal Complaint and in support thereof states as follows:

1. Complainant submitted a Formal Complaint on December 15, 2025 alleging violations of 35 Ill. Adm. Code 901.100 et seq.

2. The Formal Complaint contained attached photographs that are not marked as exhibits and serve no material purpose to the alleged violations complained of in the Formal Complaint.

3. The Board is not bound by the Illinois Code of Civil Procedure but looks to it for guidance. Section 2-615(a) allows a party to file a motion that requests "designated immaterial matter be stricken out" of a pleading. 735 ILCS 5/2-615(a).

4. A complaint's purpose is to give notice of the violations alleged with the particularity required by 35 Ill. Adm. Code 103.204(c), not to submit evidence. Whatever weight these photographs might carry is a matter for hearing.

5. Complainant's claim under 35 Ill. Adm. Code 901.102 is not founded on a written instrument the way a claim under 735 ILCS 5/2-606 might be, and the attached photographs are neither instruments upon which the claim is founded nor identified, authenticated, or referenced with the specificity that would be required to make them part of the pleading.

6. The Illinois Supreme Court stated in *Doe v. Coe*, 2019 IL123521, that "[a] party may move to strike immaterial matter from a complaint." Id. at ¶ 24 (citing 735 ILCS 5/2-615(a)),

see also, Browning v. Heritage Ins. Co., 33 Ill.App.3d 943, 948, 338 N.E.2d 912, 916 (2d. Dist. 1975) (if necessary facts in a complaint are "encumbered with unnecessary matter," the immaterial allegations are amendable to being struck).

7. The photographs should be stricken, or at a minimum should not be treated as part of the record at this point in time, because they are unnecessary matter that are immaterial to the violations complained of. The Complainants allege violations of 35 Ill. Adm. Code 901.102(a) regarding transmissions from Class C to Class A land. Pursuant to the aforementioned code section, sound pressure levels are to be measured at least 25 feet from the property-line noise source. 35 Ill. Adm. Code 901.102(a). The attached photographs purport to convey information regarding the distance from the alleged noise source to the Complainant's property, the alleged elevations of the respective properties, and a line-of-sight photograph of the alleged noise source, all through unauthenticated means.

8. The Code section the Complaintants seeks relief under does not require direct line-of-sight to the noise source, does not require specific distances to the noise source, and does not require certain elevation requirements. It requires certain classification of the property and a sound pressure level measured at least 25 feet from the property-line noise source. The photographs attached to the complaint do not aid in the establishment of these requirements, and are therefore immaterial matter in the Formal Complaint.

WHEREFORE, Respondent respectfully requests that the Hearing Officer strike the photographs attached to the Complaint that are not marked as exhibits, order that they not be made part of the record at this time, and grant such other relief as is just.

Knight Hawk Coal, LLC

By: 

Gene Gross, one of its attorneys

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CERTIFICATE OF SERVICE

I, the undersigned, on oath or affirmation, state that on the date shown below, I served copies of the attached Respondent's Motion to Strike on the Complainants at the address listed below by on the of following methods:

U.S. Mail or third-party commercial carrier with a recipient's signature recorded or to be recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery. However, the delivery confirmation from the U.S. Postal Service or the third-party commercial carrier containing the recipient's signature is not available to me at this time. On September 21, 2026, by the time of 5:00 P.M. at MURPHYSBORO, ILLINOIS, copies of the attached RESPONDENT'S MOTION TO STRIKE were provided to the U.S. Postal Service or the third-party commercial carrier, with the Respondent's address appearing on the envelope or package containing these documents, and with proper postage or delivery charge prepaid.

COMPLAINANTS ADDRESS:

Michael and Angela Griffin
4179 New Church Road
Pinckneyville, IL 62274

Attorney for Respondent Signature _____.

Date September 21, 2026
1100 Walnut Street
Murphysboro, IL 62966