

ILLINOIS POLLUTION CONTROL BOARD  
May 2, 1980

JAMES KAJI, DOROTHY KAJI, )  
ET AL., )  
 )  
Complainants, )  
 )  
v. ) PCB 80-46  
 )  
R. OLSON MANUFACTURING )  
COMPANY, INC., )  
 )  
Respondent. )

ORDER OF THE BOARD (by Mr. Goodman):

Respondent's March 31, 1980 motion to dismiss is denied. The complaint adequately alleges the elements necessary to plead a cause of action under Noise Rule 102 and §24 of the Illinois Environmental Protection Act (Act).

The complaint alleges the operation of two punch presses at varying times around the clock and that during nighttime operation it is impossible to sleep. Violations are alleged on at least one day, March 6, 1980, at about 3:20 p.m., at 87-88 dB(A) Fast, six feet away from Complainants' home.

The specifics of Complainants' allegations are taken from Ex. A to the complaint. However, even without this report, the complaint itself is specific enough to put Respondent on notice of violations of Noise Rule 102 and §24 of the Act by operating punch presses so as to emit noise beyond Respondent's boundaries and create noise pollution. The Board finds that Respondent can reasonably prepare to defend this complaint.

Section 34 of the Act relates to the Agency's powers to seal and not the Board's powers. The requested relief of sealing the presses is within the Board's power under §33 of the Act.


Compliance with Part 2 of the Board's noise regulations constitutes only a prima facie, and not an absolute, defense to violations of Noise Rule 102 or §24 of the Act.

Finally, Respondent's allegations that Complainants telephoned Respondent attempting to halt operation of the presses are not sufficient to prove that this complaint was instituted solely for purposes of harrassment.

IT IS SO ORDERED.

Mr. Nels E. Werner dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 1<sup>st</sup> day of May, 1980 by a vote of 4-6.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board