

ILLINOIS POLLUTION CONTROL
October 25, 1990

MICHAEL L. CHRISTIANSON,)
)
 Complainant,)
)
v.)
)
THE AMERICAN MILLING CO.,)
)
 Respondent.)

PCB 90-59
(Enforcement)

ORDER OF THE BOARD (by M. Nardulli):


This matter comes before the Board on a motion to exclude evidence filed on October 9, 1990 by respondent American Milling Co. (American). No response to this motion has been filed by complainant Michael L. Christianson (Christianson).

Christianson filed a citizen enforcement action against American alleging noise pollution in violation of Section 24 of the Environmental Protection Act (Act) (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1024) and 35 Ill. Adm. Code 900.102. At the July 27, 1990 hearing Christianson offered into evidence a 40-minute tape recording of American's sound emissions (Exhibit 13). The tape was recorded on a child's Fisher-Price tape recorder. The hearing officer admitted the tape over American's objection.

The Board has previously held that such tapes are not admissible because such tapes may not accurately reflect the actual noise levels at relevant locations on complainant's property. (Kvatsak v. St. Michael's Lutheran Church, PCB 89-182 (August 30, 1990); Anino v. Browning-Ferris Industries, PCB 87-139 (August 18 1988).) Accordingly, the Board finds that the tape should not have been admitted into evidence in this case and, therefore, the hearing officer's ruling admitting the tape is reversed. The Board hereby grants respondent's motion to exclude Exhibit 13.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 25th day of October, 1990, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board