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SEP 21 2003

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
STATE OF ILLINOIS  
Pollution Control Board

BARBARA STUART	)	
RONALD STUART	)	
	)	Complainants
	)	v.
FRANKLIN FISHER	)	PCB 02-164
PHYLLIS FISHER	)	Citizens Enforcement/noise
	)	
	)	Respondents

September 10, 2003

PRODUCTION OF DISCOVERY

The attached report and map from Greg Zak, of "Noise Sollutions" as requested by David Harding, attorney for the above respondents is being sent to the person/s listed below. The attached map indicates homes/farms beginning at Route one going eastward approximately one mile on Corning Rd. As previously discussed a more precise map with residential and agricultural locations will be provided at the hearing. Mr. Zak's report is regarded as Exhibit D.

*Barbara Stuart 9-10-03*

Barbara Stuart  
213 E. Corning Rd.  
Beecher, Illinois 60401

Copies sent to:

David G. Harding  
100 N. La Salle St.  
Suite 1107  
Chicago, Illinois 60602  
**(sent via/certified mail)**

Bradley Halloran  
100 W. Randolph  
Suite 11-500  
Chicago, Illinois 60601

Dorothy Gunn  
Clerk of the IPCB  
Suite 11-500  
100 W. Randolph  
Chicago, Illinois 60601

Bobby Petrungerro  
Will County States Attorney Office  
14 W. Jefferson  
Joliet, Illinois 60432

Gregory Zak  
Noise Sollutions  
36 Birch Dr.  
Chatham, Illinois 62629

All documents prepared on recycled paper

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

SEP 11 2003

BARBARA STUART  
RONALD STUART

Complainants

v.

FRANKLIN FISHER  
PHYLLIS FISHER

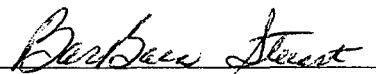
Respondents

STATE OF ILLINOIS  
Pollution Control Board

PCB 02-164  
Citizens Enforcement/noise

September 10, 2003  
CERTIFICATE OF SERVICE

Barbara Stuart, being first duly sworn on oath, says she is the complainant in the above entitled Illinois Pollution Control Board case PCB 02-164 regarding Citizen Enforcement for noise. She states she has read the report prepared by Gregory Zak of "Noise Solutions", which is hereby attached. She states she knows the contents thereof, and that the same is true to her own knowledge and belief.

  
Barbara Stuart  
213 E. Corning Rd.  
Beecher, Illinois 60401

Subscribed and Sworn to before me this 10th  
Day of September, 2003

  
Notary Public

seal:



Copies sent to:

David G. Harding  
100 N. La Salle St.  
Suite 1107  
Chicago, Illinois 60602  
(sent via/certified mail)

Bradley Halloran  
100 W. Randolph  
Suite 11-500  
Chicago, Illinois 60601

Dorothy Gunn  
Clerk of the IPCB  
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100 W. Randolph  
Chicago, Illinois 60601

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14 W. Jefferson  
Joliet, Illinois 60432

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SEP 11 2003

**PROOF OF SERVICE**

I, the undersigned, on oath (or affirmation) state that I have served on the date of September 10, 2003, the attached production of discovery, Exhibit D, by U.S. Mail at the Beecher post office, Beecher, Illinois 60401 having proper postage, upon the following persons: Note: David Harding's copies of the above documents were sent certified mail.

STATE OF ILLINOIS  
Pollution Control Board

Barbara Stuart 9-10-03  
Barbara Stuart date

PCB # 02-164  
Citizens Enforcement  
Noise

David Harding  
Attorney for:  
Franklin Fisher and Phyliss Fisher  
100 N. LaSalle St.  
Chicago, Illinois 60602

Bradley P. Halloran  
Hearing officer  
Illinois Pollution Control Bd.  
James R. Thompson Ctr.  
100 W. Randolph St.  
Chicago, Illinois 60601

Dorothy Gunn  
Clerk of IPCB  
Suite 11-500  
100 W. Randolph  
J. Thomspson Ctr  
Chicago, Illinois  
60601

Will County States Attorney Office  
Bobby Petrungarro  
Assistant State's Attorney  
14 W. Jeffereson,  
Joliet, Illinois 60432

Gregory Zak  
Noise Solutions  
26 Birch  
Chatham, Illinois

All documents prepared on recycled paper

*Greg Zak*

# NOISE SOLUTIONS BY GREG ZAK

36 BIRCH DRIVE  
CHATHAM, ILLINOIS 62629  
(217) 483-3507  
(217) 483-5667-FAX  
E-mail: [gregzak@justice.com](mailto:gregzak@justice.com)

September 8, 2003

Mr. and Mrs. Ronald Stuart  
213 East Corning Road  
Beecher, IL 60401

RE: Ambient Noise Report and Visit to the Residence of Barbara and Ronald Stuart

Dear Mr. and Mrs. Stuart:

Below you will find a narrative in report form that summarizes our assessment of the potential noise impact alleged in your complaint to the Illinois Pollution Control Board (PCB 02-164).

Greg and Pat Zak of Noise Solutions by Greg Zak arrived in Beecher on August 2, 2002 at approximately 10:45 AM. We turned off of Route 1, passed the Frank Fisher property on the south side of Corning Road and proceeded east. We passed the Stuart property that was located approximately 0.3 miles east of the Fisher property according to the odometer in our car. We continued traveling east for some distance until coming to a church on the north side of the road. At that point, we turned around and drove back to the Stuart residence. The purpose of our driving up and down Corning Road was to verify the accuracy of a hand-drawn map of the area supplied to us by Mrs. Stuart (see Attachment A). The map, while not to scale, presented a reasonably accurate description of the area depicting the location of several homes and lot sizes on Corning Road. Our impression of the area was that of a rural setting which was probably unincorporated and having few near neighbors. Based on our experience of measuring noise in these types of rural settings, the area appeared to fall into the category of extremely quiet, probably some of the quietest land in Illinois. The average lot size in the area was approximately 10 acres, with a few being as small as 3 acres and some considerably larger than 10 acres. The distances between homes averaged over 600 feet apart and in some cases, much greater than this. After driving around the area, we visited with both of you and your son, Michael, at your home from 11 AM to 1:30 PM to discuss the specifics of your noise problem. The noise was the result of propane cannons being used by Mr. Frank Fisher, who resides at 13 West Corning Road, Beecher, IL 60401.

You gave us a walking tour of the area to obtain an understanding of how you and your neighbors were being impacted by the noise from the propane cannons. You pointed out the location where you had taken many of your noise measurements. We determined that this was a good site to avoid reflective objects. We set up our noise measurement instrumentation at that location in order to measure the daytime ambient. We took measurements, using a precision analyzer, set up on a tripod and microphone. After calibrating the

Mr. & Mrs. Ronald Stuart, September 8, 2003

took measurements, using a precision analyzer, set up on a tripod and microphone. After calibrating the analyzer, measurements were taken and are documented in Table 1 below. It was a windy day, with some wind gusts approaching 20 miles per hour. We realized that our measurements would reflect wind noise, but decided some measurements would be better than no measurements at all. We measured a dB(A) level of 43.5. The only sound we could hear was the wind. It is our opinion that had the wind been less than 12 mph, the level we measured would have been at least 10 dB(A) lower (see Table 1). We observed that while we were there, the traffic from Corning Road was extremely light to almost non-existent.

During our visit, you indicated how the noise from the cannons affected you and your family's day-to-day activities. You told us that the noise has impacted your son, Michael's hearing, as his doctor has documented that he has a hearing loss and is sensitive to loud noises. Michael is unable to enjoy the normal outside activities of a boy his age, when the cannons are in use by Mr. Fisher. You also said that your dogs have been afraid of the sounds and stay indoors and that one of them died due to becoming stressed from the cannon sounds by trying to force herself through a locked gate on your property. You further explained that wildlife in your area was being affected by the cannons, in particular, the geese that used to frequent the area are rarely seen. You described the cannon noise as a constant interference in your daily lives, when attempting to spend time in and around your home. In our opinion, your descriptions of the loss of enjoyment and use of your own property, due to the noise from the propane cannons when in use by Frank Fisher, are good evidence of a nuisance violation.

Designation	Measurement Time (sec.)	Date	31.5 Hz	63 Hz	125 Hz	250 Hz	500 Hz	1K Hz	2K Hz	4K Hz	8K Hz	dB(A)
Ambient	600	8-2	58.0	50.8	44.7	37.2	34.8	35.3	36.2	37.8	35.3	43.5

Table 1. Ambient Noise Levels on Stuart Property (Daytime)

We have taken measurements of a propane cannon that were used in a circuit court in Brown County, Illinois to obtain a permanent injunction to stop their use. In our opinion, a propane cannon is louder than the report of a 12-gauge shotgun. We have taken thousands of measurements of gunfire from shotguns at various distances. The noise impact you describe is consistent with our experience with that type of noise in the very quiet area in which you live and your close proximity to the cannons.

It is concluded, in our opinion and experience, with a reasonable degree of scientific certainty that the noise emissions from the propane cannons, when used by Mr. Frank Fisher, exceed the allowable limits of Sections 900.102 of Title 35, Sub-Title H, Chapter I of the Illinois Administrative Code.

If you have any further questions, please do not hesitate to call.

Sincerely, 

Greg Zak, INCE

Attachment

ROUTE 1 - MAIN HWY

ATTACHMENT A

□ 13W. CORNING RD.  
- FRANKLIN FISHER  
Home 40 ACRES  
FARM

□ HOME - FARM 5 ACRES

□ HOME - 3 ACRES  
NO FARM

□ HOME - 3 ACRES  
NO FARM

1/3 mile  
FROM FISHER

□ - OUR HOME 10 ACRES  
NO FARM  
213 E. CORNING RD  
BEECHER, IL 60401

□ HOME - 10 ACRES  
SHARECROPS 5 ACRES

□ ELECTRONIC BUSINESS  
10 ACRES

□ HOME - NO FARM  
10 ACRES

□ HOME NO FARMS  
30 ACRES

□ HOME NO FARM

CORNING  
RD.

All this area used  
as rental farms  
pre-195 ACRES  
NO RESIDERS

□ - HOME 10 ACRES  
DO NOT FARM

This area rented  
for farming -  
NO HOME ON IT.  
30 ACRES

□ - HOME 10 ACRES  
NO FARM

VACANT AREA  
FOR SALE 20 ACRES

□ - HOME NO FARM

□ HOME NO FARM

□ - Church