

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD OF THE  
2 STATE OF ILLINOIS

3

4

5 IN THE MATTER OF: )  
6 PROPOSED NEW AND UPDATED RULES FOR )  
7 MEASUREMENT AND NUMERICAL SOUND ) No. R03-9  
8 EMISSIONS STANDARD AMENDMENTS TO )  
9 35 ILL. ADM. CODE 901 and 910 )  
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15 TRANSCRIPT OF PROCEEDINGS held in the  
16 hearing of the above-entitled matter, taken  
17 stenographically by Maria E. Shockey, CSR, before  
18 MARIE E. TIPSORD, Hearing Officer, at the  
19 James R. Thompson Center, 100 West Randolph Street,  
20 Room 8-033, Chicago, Illinois, on the 10th of  
21 February, A.D., 2004, at 10:06 a.m.

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1 A P P E A R A N C E S:

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3 ILLINOIS POLLUTION CONTROL BOARD,  
4 100 West Randolph Street  
5 Room 8-033  
6 Chicago, Illinois 60601  
7 (312) 814-6983  
8 BY: MS. MARIE E. TIPSORD, HEARING OFFICER;

6

7 OFFICE OF THE ILLINOIS ATTORNEY GENERAL,  
8 188 West Randolph Street  
9 20th Floor  
10 Chicago, Illinois 60601  
11 (312) 814-5393  
12 BY: MR. HOWARD O. CHINN, P.E., CHIEF ENGINEER  
13 ENVIRONMENTAL BUREAU NORTH;

10

11 OFFICE OF THE ILLINOIS ATTORNEY GENERAL,  
12 188 West Randolph Street  
13 20th Floor  
14 Chicago, Illinois 60601  
15 (312) 814-5393  
16 BY: MR. JOEL J. STERNSTEIN, ASSISTANT ATTORNEY  
17 GENERAL, ENVIRONMENTAL BUREAU NORTH.

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16 PANEL OF BOARD MEMBERS:  
17 MR. G. TANNER GIRARD, LEAD BOARD MEMBER  
18 MR. ANAND RAO  
19 MS. LISA LIU

18

19

ALSO PRESENT:

20

21 MR. JOHN P. MCGILLIVRAY, MANAGER OF  
22 SCOT FORGE SAFETY & ENVIRONMENTAL AFFAIRS

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1                   HEARING OFFICER TIPSORD: Good  
2 morning. My name is Marie Tipsord, and I've  
3 been appointed by the Board to serve as  
4 hearing officer in this proceeding entitled:  
5 In the Matter of Proposed New and Updated  
6 Rules for Measurement and Numerical Sound  
7 Emissions Standard Amendments to 35 Ill. Adm.  
8 Code 901 and 910. The Docket Number is  
9 R03-9.

10                   To my right is Dr. Tanner Girard,  
11 the lead board member assigned to this  
12 matter, and to my immediate left is  
13 Anand Rao, the head of our finance technical  
14 unit, and to his left is Lisa Liu, also a  
15 member of our scientific and technical unit.

16                   This is the third hearing to be  
17 held in this proceeding and is being held  
18 because the Board received a request for a  
19 third hearing from Boughton Trucking  
20 Materials, Inc., and the Illinois Association  
21 of Aggregate Producers.

22                   The purpose of today's hearing is  
23 to allow anyone who wishes to testify. And I  
24 see one person here to testify,

1 Mr. McGillivray. We'll have you sworn in and  
2 let you give your testimony.

3 MR. GIRARD: Maybe I should --

4 HEARING OFFICER TIPSORD: Oh, wait.  
5 I'm sorry.

6 Dr. Girard?

7 MR. GIRARD: Thank you.

8 On behalf of the Board, I'd like  
9 to welcome everyone to the hearing today.  
10 The Board is very serious about updating our  
11 noise rules. These rules have not been  
12 updated since the 1980s and so we're very  
13 pleased to be involved in this process, and  
14 we're pleased that we're getting some  
15 participation from some of the affected  
16 groups.

17 We hope maybe more people can be  
18 roped into coming in and testifying and  
19 helping us make the very best noise rules we  
20 can put together. So I am pleased that  
21 John McGillivray from Scot Forge is here  
22 today and, of course, I'm pleased to see  
23 Howard Chinn and Joel Sternstein from the  
24 Attorney General's Office, they've been with

1 us since the beginning.

2 And so we look forward to hearing  
3 testimony and comments and hope that you  
4 could get other members of the business  
5 community involved so that we have good rules  
6 crafted. Thank you.

7 HEARING OFFICER TIPSORD: Go ahead and  
8 swear him in now.

9 THE REPORTER: Okay.

10 (Witness sworn.)

11 HEARING OFFICER TIPSORD: Thank you.  
12 Go ahead.

13 MR. MCGILLIVRAY: I'd like to submit  
14 the following handout just for reference  
15 purposes.

16 HEARING OFFICER TIPSORD: If there's  
17 no objection, then we'll admit this as  
18 Exhibit 1.

19 (No response.)

20 Seeing none, this will be admitted as  
21 Exhibit 1.

22 MR. MCGILLIVRAY: I'd like to  
23 introduce myself. My name is John  
24 McGillivray. I'm the manager of safety and

1 environmental affairs for the Scot Forge  
2 Company. I've been in this position for  
3 approximately six years.

4 I'd like to give a brief overview  
5 of our company and discuss why we are in  
6 favor of updating the rules and make it  
7 concurrent with our current operations.

8 Scot Forge has been in operation  
9 with the greater Chicagoland area for  
10 111 years. It started out as brothers coming  
11 across on the boat from Scotland and being  
12 blacksmiths in the town of Chicago and then  
13 later moved to Cicero.

14 Currently, we are an  
15 employee-owned company. We've been that way  
16 for 25 years. All of us have a stake as  
17 employee owners in the continued operation of  
18 our company. We have approximately \$145  
19 millions in annual sales with expected annual  
20 sales of \$154 million in 2004.

21 Our business is booming. We have  
22 locations in Franklin Park, Illinois; Spring  
23 Grove, Illinois] And Clinton, Wisconsin. Our  
24 primary products are open-die and metal

1           forges.

2                         We operate both steam drop hammers  
3           at the Franklin Park facility, and the  
4           Clinton, Wisconsin and Spring Grove, Illinois  
5           facilities operate hydraulic presses.

6                         The reason that we're here  
7           today -- or that I'm here today is to discuss  
8           our consolidation from our Cicero, Illinois  
9           plant to our Franklin Park location, which  
10          occurred in 1993.

11                        At that point, in late '92, our  
12          sales had increased to the point where we had  
13          outgrown our Cicero operation, and that is  
14          the facility that is covered under Section  
15          901.118 of the Scot Forge Company located in  
16          Cicero, Illinois.

17                        In 1993, we purchased the  
18          Hellstrom Corporation, which was another drop  
19          hammer shop that was located in Franklin  
20          Park, Illinois, and began the process of  
21          consolidating assets to that location. In  
22          our Cicero operation, we operated three drop  
23          hammers.

24                        The Hellstrom Corporation had

1 eight drop hammers standing, although, they  
2 did not operate -- they only operated six, I  
3 believe. So in 1993, again, we consolidated,  
4 and in 1994, we closed our Cicero operation.  
5 Most of the Hellstrom employees were retained  
6 by Scot Forge in addition to transferring our  
7 Cicero employees to the new location.

8 After the consolidation, we had  
9 been currently running on and off six hammers  
10 at that facility, and when we submitted our  
11 request to update the current section of  
12 Code 118 on August 28, 2003, we had requested  
13 to operate no more than six forging hammers  
14 at any one time.

15 At this board meeting, I would  
16 like to request that it be increased to seven  
17 at any one time. Again, our business outlook  
18 for 2004 to 2005 may dictate at any given  
19 time we may have to operate seven.

20 We can get by on six, but I think  
21 that if our business continues to grow, it  
22 will become a definite necessity. And rather  
23 than taking anymore time with the Board, I'd  
24 like to build into the permit the option of



1 operating that seventh permit.

2 So I guess in summary, Scott Forge  
3 is requesting that the updated permit read  
4 that we operate no more than seven hammers at  
5 any one time for the period of 6:00 a.m. to  
6 11:00 p.m., Monday through Saturday at our  
7 current location of  
8 9394 West Belmont Avenue in Franklin Park,  
9 Illinois.

10 One thing about this location, it  
11 is adjacent to the Wisconsin Central Railroad  
12 line, which is one of the largest and busiest  
13 railroads in the area. The noise levels in  
14 that area already because of the train  
15 traffic are exceptionally high.

16 When we're having a meeting in our  
17 building and a train comes to the crossing on  
18 Belmont Avenue, we have to stop our meeting  
19 waiting for the whistles to stop. So noise  
20 level-wise inside the building, you can get  
21 up to 110 to 114 decibels in terms of impact  
22 noise levels.

23 Once you get outside the structure  
24 at the facility perimeter, it's typically

1 down to the 92 to 93 level and, again, we're  
2 in an industrial site with the railroad right  
3 next to us. To my knowledge, in the six  
4 years that I've been in this position, I've  
5 never received noise complaint from our  
6 facility.

7 We are also bordered by Nelson  
8 Steel. Our two facilities are kind of  
9 intermingled, you know, we own one building  
10 and they own one building. It's kind of  
11 patchworked together, and I'm not sure  
12 whether they have received any complaints of  
13 noise.

14 We work very strongly with the  
15 community of Franklin Park, Illinois to  
16 ensure that, you know, any issues are  
17 resolved that may come up at any given time.  
18 But as I said, in the six years that I've  
19 been in this position, I've never had a  
20 complaint come forward to my desk.

21 Are there any questions from any  
22 of the Board members?

23 MR. CHINN: Where is the nearest  
24 resident?

1                   MR. MCGILLIVRAY: The nearest resident  
2 would be approximately probably 125 yards to  
3 the west of our facility.

4                   MR. CHINN: 125 yards?

5                   MR. MCGILLIVRAY: Yeah, something in  
6 that neck of the woods, maybe 100 yards.  
7 One hundred yards is probably more accurate.

8                   MR. CHINN: And that's to the west?

9                   MR. MCGILLIVRAY: To the west.

10                  MR. CHINN: Has there been any noise  
11 survey or noise measurements around the  
12 facility?

13                  MR. MCGILLIVRAY: We have brought the  
14 on-site consultation program from the State  
15 of Illinois from the OSHA side in to do noise  
16 studies within our facility, yes.

17                  MR. CHINN: That's within. How about  
18 any noise survey conducted external to the  
19 plant?

20                  MR. MCGILLIVRAY: Not to my knowledge,  
21 sir.

22                  MR. CHINN: The noise that is  
23 transmitted through the air, are there any  
24 vibrations to the ground?

1 MR. MCGILLIVRAY: Yes, sir.

2 MR. CHINN: Has that been monitored or  
3 measured?

4 MR. MCGILLIVRAY: Not to my knowledge,  
5 sir.

6 MR. RAO: The current rules that you  
7 want to be amended, are those rules adopted  
8 for your Cicero facility? Were they  
9 site-specific rules?

10 MR. MCGILLIVRAY: They were  
11 site-specific, and Section 118 was  
12 site-specific to Scot Forge.

13 MR. RAO: And so you want that rule to  
14 be replaced by a site-specific rule for your  
15 Franklin Park facility?

16 MR. MCGILLIVRAY: Yes, sir.

17 MR. RAO: And you mentioned the noise  
18 measurements taken inside your building and  
19 also outside and you gave some rough  
20 estimates. Are they A-rated decibel levels?

21 MR. MCGILLIVRAY: Yes, sir. But that  
22 was done by myself as opposed to an outside  
23 independent person. And, again, inside the  
24 building, we have taken noise levels with the

1 State of Illinois's on-site consultation  
2 program.

3 MR. CHINN: Can you describe the type  
4 of instruments that you used for that?

5 MR. MCGILLIVRAY: For --

6 MR. CHINN: The noise survey.

7 MR. MCGILLIVRAY: Just a dosimeter,  
8 noise dosimeter.

9 MR. CHINN: Who's the manufacturer?

10 MR. MCGILLIVRAY: I've got it sitting  
11 in my office. I don't know who manufactured  
12 it. I can certainly provide that information  
13 to the Board if requested.

14 MR. GIRARD: I have a question. Do  
15 many of your workers live in Franklin Park?

16 MR. MCGILLIVRAY: I know several are  
17 within five minutes. I don't think that they  
18 are within the town limits of Franklin Park,  
19 certainly the surrounding communities, yes.

20 There's a lot of people from  
21 Berwyn, the City of Chicago, Park Ridge, I  
22 believe, Hoffman Estates, so there are  
23 several within the general vicinity, but I  
24 don't know of any that directly live in the

1 Franklin Park area.

2 There are -- at this particular  
3 location, we have approximately 60 employees  
4 at this site and 480 that's listed in the  
5 handout that's corporate company-wide.

6 MR. GIRARD: Thank you.

7 When you talk about being  
8 100 yards from the nearest residence, are  
9 there any trees or anything in between?

10 MR. MCGILLIVRAY: The Nelson Steel  
11 Factory is between us and the nearest  
12 residence. We have Nelson Steel to the west  
13 and then you go into a residential area. To  
14 the east, you have the railroad line and then  
15 some additional industrial facilities.

16 And across the street to the north  
17 -- or excuse me, across the street to the  
18 south, we have a bakery. So generally  
19 speaking, that specific area is also  
20 industrial.

21 MR. GIRARD: Thank you.

22 MR. CHINN: How many employees does  
23 the plant have?

24 MR. MCGILLIVRAY: At that particular

1 location, approximately 60.

2 MR. CHINN: How many?

3 MR. MCGILLIVRAY: Sixty.

4 MR. CHINN: Is that on one shift?

5 MR. MCGILLIVRAY: We operate three  
6 shifts. We have -- I'm going to do this  
7 backwards. On third shift, we have two  
8 individuals. We have five individuals on  
9 second shift, and the remaining balance is on  
10 the first shift.

11 MR. GIRARD: So in terms of your  
12 operation, you say you're operating the  
13 hammers from 6:00 a.m. to 11:00 p.m., so your  
14 third shift is -- no hammers?

15 MR. MCGILLIVRAY: That's correct. We  
16 have been a first-shift operation with the  
17 hammers only for the last approximately three  
18 and a half years. The reason that we want to  
19 have the flexibility of going to a second  
20 shift is, again, if business continues to  
21 build, as we hope it does, we want the option  
22 of being able to run a second shift if  
23 necessary.

24 Certainly from the workers' point

1 of view everyone being on day shift  
2 primarily, it is the ideal situation for  
3 them. The second shift personnel only run  
4 the machine side and heat treat operations,  
5 and then third shift is a -- one maintenance  
6 person and one heat treat operator. So  
7 those, generally speaking, are noiseless  
8 operations.

9 So the majority of our noise comes  
10 between the hours of 6:00 a.m. and  
11 approximately 3:30 p.m. to 4:00 p.m.

12 MR. GIRARD: Thank you.

13 MR. RAO: When Scot Forge got the  
14 site-specific relief back in 1984, there was  
15 a lot of testimony that was presented about  
16 your forging operations and what it would  
17 take for your forging operation to come into  
18 compliance with the Board regulations which  
19 were found to be unreasonable at that time.

20 Have you had a chance to look at  
21 that Board opinion where all of these, you  
22 know, factors were discussed to see if some  
23 of them still apply or --

24 MR. MCGILLIVRAY: I have not seen that



1 documentation, sir.

2 MR. RAO: Okay. Would it be possible  
3 for you to take a look at that and, if not  
4 today, provide some comments as to -- if the  
5 things that were discussed or the factors  
6 that were discussed at that time whether, you  
7 know, with changes in technology, everything  
8 has changed in the last 20 years so that you  
9 can do some things or if it's still the same  
10 where, you know, to come into compliance  
11 would not be a reasonable thing to do?

12 MR. MCGILLIVRAY: The equipment that  
13 we operate, generally speaking, is not even  
14 produced anymore commercially. Most of these  
15 hammers are probably in the neighborhood of  
16 30 to 50 years old, so we are certainly  
17 dealing with dated equipment.

18 But I would be happy to take that  
19 back and work with my client's staff to see  
20 if there's anything that -- any other  
21 concerns that we could address in that.

22 MR. RAO: That would be helpful.

23 HEARING OFFICER TIPSORD: You can pick  
24 up a copy of that upstairs in our offices

1 before you leave today. We'll get you a copy  
2 of that --

3 MR. MCGILLIVRAY: Okay.

4 HEARING OFFICER TIPSORD: -- because  
5 I'm not sure it's linked on the Web. It's an  
6 old enough opinion that it may not be linked  
7 on the Web.

8 MR. MCGILLIVRAY: Is there a --

9 MR. RAO: The docket number is R83-34.

10 MR. MCGILLIVRAY: And that was from  
11 19 --

12 MR. RAO: December 20, 1984. It's the  
13 Board's final opinion and order.

14 MR. MCGILLIVRAY: When would you like  
15 your response back by?

16 HEARING OFFICER TIPSORD: At the close  
17 of the hearing, I'm going to be talking about  
18 the potential of closing the comment period  
19 or even holding another hearing, and we'll  
20 set a time frame and I'll send a hearing  
21 officer order out letting you know what that  
22 is, but no sooner than 60 days.

23 MR. STERNSTEIN: Mr. McGillivray, a  
24 couple of questions: Regarding the homes

1           that are in the general vicinity of the  
2           Scot Forge plant, how old did you say that  
3           most of those homes are? And I realize  
4           you're not an expert on the type the  
5           construction but --

6                     MR. MCGILLIVRAY: I would guess most  
7           of those homes are 40 years, plus in age.

8                     MR. STERNSTEIN: Okay.

9                     MR. MCGILLIVRAY: Brick construction.

10                    MR. STERNSTEIN: Okay. Have any of  
11           the homes in the general vicinity been built  
12           within, say, the last five years?

13                    MR. MCGILLIVRAY: Not to my knowledge.

14                    MR. STERNSTEIN: Are there any vacant  
15           or large vacant parcels of property within,  
16           say, 200 or 300 yards of the plant?

17                    MR. MCGILLIVRAY: Not to my knowledge.

18                    MR. STERNSTEIN: And there's been no  
19           discussion in the community of new home  
20           constructions in that area?

21                    MR. MCGILLIVRAY: That area is  
22           completely full of either businesses or  
23           existing homes.

24                    MR. STERNSTEIN: Okay. Thank you.

1                   MR. RAO: Just as a follow-up, is that  
2 area generally zoned industrial, commercial  
3 or are there any residential areas in the  
4 same vicinity like within 500 yards?

5                   MR. MCGILLIVRAY: To the east of us,  
6 there are residential homes. The Scot Forge  
7 plant fronts on Belmont Avenue. Belmont  
8 Avenue has businesses all along it in that  
9 particular area.

10                   And then once you get behind the  
11 first row of businesses, typically the -- on  
12 the side streets, the residential areas start  
13 picking up. It's mostly single-family homes.

14                   HEARING OFFICER TIPSORD: Anything  
15 further?

16                   MR. CHINN: Does the plant utilize any  
17 acoustical material to attenuate sound  
18 emissions from the inside of the plant to the  
19 outside of the plant or within the internals  
20 of the plant?

21                   MR. MCGILLIVRAY: Specific acoustic  
22 baffling, no, sir. I mean, there is  
23 insulation certainly on some of the walls and  
24 in some of the ceiling areas and things like

1           that, but specific acoustic baffling  
2           materials, no.

3                   MR. CHINN:  The seventh hammer, that's  
4           a new one?

5                   MR. MCGILLIVRAY:  We have several of  
6           our old hammers sitting out in mothballs and,  
7           again, we are considering resurrecting it  
8           because most of the parts that we are being  
9           asked to build at that facility now are  
10          larger in nature.

11                   Those hammers that we have are  
12          relatively smaller, so this would actually  
13          match our second largest -- if we put this  
14          seventh hammer in, it would match our second  
15          largest hammer that we have in operation  
16          currently.

17                   MR. CHINN:  So the seventh hammer is  
18          larger than the other six?

19                   MR. MCGILLIVRAY:  The seventh hammer  
20          would be larger than five and equal in size  
21          to one and smaller than our largest hammer.  
22          It would be a 4000-pound drop hammer.

23                   MR. CHINN:  I see.  Are there  
24          specially designed foundations for the new

1 hammer?

2 MR. MCGILLIVRAY: There would be, yes,  
3 sir. It's a combination of concrete and  
4 timbers that are laid in a kind of a  
5 patchwork that help absorb the shocks. These  
6 products that we produce on these hammers  
7 are -- it's the energy of the dropping that  
8 forces the hot steel into the tools that we  
9 use to form the parts.

10 And so with that shock, if you  
11 were on a rigid foundation, you would crack  
12 that very quickly. So it's actually a very  
13 specialized wood that we import to actually  
14 lay in the foundation of these hammers.

15 MR. CHINN: The foundation is  
16 independent and not in physical contact with  
17 the floor?

18 MR. MCGILLIVRAY: It is a separate  
19 entity to itself.

20 MR. CHINN: Okay.

21 MR. MCGILLIVRAY: Certainly, there's  
22 flooring around it, but there's a direct  
23 column of support underneath these hammers.  
24 And the soil in that area, generally

1 speaking, is clay in nature.

2 MR. CHINN: Clay?

3 MR. MCGILLIVRAY: Clay, so it deadens  
4 things very, very quickly.

5 MR. CHINN: Did you mention that OSHA  
6 has inspected the plant?

7 MR. MCGILLIVRAY: We use the Illinois  
8 on-site consultation program, the  
9 consultation arm of OSHA. Since I have been  
10 in this position six years, OSHA has not been  
11 in our facility.

12 MR. GIRARD: Who were the major  
13 customers for your products?

14 MR. MCGILLIVRAY: At the Franklin Park  
15 plant, it is a variety of gear manufacturers.  
16 You have original equipment manufacturers,  
17 OEM companies that utilize a lot of the  
18 parts. It's generally a heavy industry,  
19 power generation-type transportation  
20 industry.

21 We make a tremendous amount of  
22 parts for Caterpillar, railroad companies,  
23 you know, that's the gamut. We have  
24 somewhere in the neighborhood of 1800 active

1 customers, and we do a tremendous amount of  
2 government work in our larger facilities, so  
3 we have a wide spectrum of work.

4 And that's certainly helped us in  
5 the last few years. We've been able to  
6 weather the storm rather well of, you know,  
7 downsizing and things like that because our  
8 customer base is so diverse.

9 MR. CHINN: Are any of your neighbors  
10 aware of your proposal to add a seventh  
11 hammer?

12 MR. MCGILLIVRAY: We have not made it  
13 public knowledge. Currently, it would be our  
14 intention to -- you know, at this point, we  
15 only have four operating crews. It's more  
16 of -- not that we're going to operate seven  
17 continuously at any given one time, we just  
18 want to make sure that the Board understands  
19 that we will have seven hammers erected at  
20 any one time.

21 And if we need to, we could  
22 operate seven, but typically, it takes three  
23 to four people to operate a hammer if you  
24 have a hammer driver and you have people that



1 are positioning the part on the dye itself.

2 And so right now we have 28 -- or  
3 excuse me, we have four crews of four and  
4 three kind of floating people, so you've got  
5 a total of 15 personnel that could operate.

6 Again, if business continues to  
7 increase, we'll continue to have to add  
8 staff, and we may start operating five  
9 hammers or six hammers or split some of those  
10 crews and work with the floating staff as  
11 well.

12 At this point, we've made no  
13 proposal to the Board -- or to the Village  
14 Board to erect the hammer. What we're trying  
15 to do is build in some additional spaces into  
16 the permit that we wouldn't have to come in  
17 and alter the permit, you know, six months  
18 from now.

19 MR. CHINN: Insulation of the seventh  
20 hammer requires a building permit from the  
21 village?

22 MR. MCGILLIVRAY: Not to my knowledge,  
23 but that is something I would certainly look  
24 into. Typically, the plant manager would

1 handle that aspect of the operation.

2 MR. RAO: I was about to ask the same  
3 question. Are there any other permits that  
4 you need to obtain from the IEPA or --

5 MR. MCGILLIVRAY: Not to our  
6 knowledge. And, again, when Scot Forge took  
7 over the facility, there were eight  
8 operational hammers at that point, so we're  
9 not even back to where the facility was  
10 operating in 1992.

11 MR. RAO: Are you aware of whether,  
12 you know, Hellstrom Corporation, if they had  
13 any site-specific relief from the Board?

14 MR. MCGILLIVRAY: I looked through  
15 Section 901, and I did not see Hellstrom  
16 having any site-specific relief from the  
17 Board.

18 MR. STERNSTEIN: Mr. McGillivray,  
19 was it Section 901.118, is that where the  
20 site-specific relief is?

21 MR. MCGILLIVRAY: Yes, sir.

22 MR. STERNSTEIN: Okay. And I'm sorry,  
23 I don't have that in front of me, but you're  
24 requesting that your hours of operation be

1           allowed from 6:00 a.m. to 11:00 p.m. Did the  
2           former site-specific rule set the hours of  
3           operation?

4                     MR. MCGILLIVRAY: Yes, sir.

5                     MR. STERNSTEIN: What were those hours  
6           of operation?

7                     MR. MCGILLIVRAY: I believe it was  
8           6:00 to 11:00 as well.

9                     MR. STERNSTEIN: 6:00 to 11:00 as  
10          well.

11                    HEARING OFFICER TIPSORD: Here  
12          (indicating.)

13                    MR. STERNSTEIN: Thanks, Marie.

14                    HEARING OFFICER TIPSORD: Uh-huh.

15                    MR. STERNSTEIN: Actually -- well,  
16          wait. It says here -- I'm reading 901.118B:  
17          Operate its forging hammers only between the  
18          hours of 6:00 a.m. and 6:00 p.m., Monday  
19          through Saturday.

20                             So in a sense, you would be asking  
21          for additional time in the new regulation?

22                             Can I show this to  
23          Mr. McGillivray?

24                    HEARING OFFICER TIPSORD: Uh-huh.

1 (Mr. McGillivray perusing  
2 the document.)

3 MR. MCGILLIVRAY: We're asking for  
4 additional time. My apologies to the Board.

5 MR. STERNSTEIN: Another couple of  
6 questions: You're not asking for any  
7 relief -- or site-specific relief for your  
8 facility in Spring Grove?

9 MR. MCGILLIVRAY: No, sir.

10 MR. STERNSTEIN: Okay. Are there  
11 steamdrop hammers or hydraulic drop presses  
12 at your facility in Spring Grove?

13 MR. MCGILLIVRAY: They are hydraulic  
14 presses, they are not drop presses. They're  
15 essentially silent in nature.

16 MR. STERNSTEIN: Okay. So you  
17 wouldn't -- the relief requested here  
18 wouldn't be necessary for the Spring Grove  
19 facility?

20 MR. MCGILLIVRAY: No. This is  
21 Franklin park only.

22 MR. STERNSTEIN: Okay.

23 HEARING OFFICER TIPSORD: Anything  
24 else?

1 (No response.)

2 Mr. McGillivray, I would like to note  
3 that Section 901.118 is not currently open in  
4 this rulemaking. And what that means is  
5 under the Illinois Register -- Illinois  
6 Administrative Code, if we don't propose a  
7 first notice of rule, we can't do anything in  
8 second notice with it.

9 So at this point, quite honestly,  
10 the only way that we could possibly give you  
11 what you're asking for is to re-first notice  
12 the rule -- or first notice that section  
13 under the Administrative Procedure Act.

14 My question is if the Board were  
15 to decide that your argument has some merit  
16 and that we would like to see that happen, if  
17 we opened another docket and proposed for  
18 first notice your site-specific rule, would  
19 you be willing to testify and provide  
20 additional information to the Board as  
21 requested to support that rule?

22 MR. MCGILLIVRAY: Absolutely.

23 HEARING OFFICER TIPSORD: And, again,  
24 I would note that at this point, the only

1 option we would have would be to start over  
2 with the whole rule, start over with your  
3 section or re-first notice. And quite  
4 frankly, re-first notice may not be out of  
5 the question at this point.

6 MR. MCGILLIVRAY: Okay.

7 HEARING OFFICER TIPSORD: Anybody  
8 else?

9 (No response.)

10 Thank you very much. You've been very  
11 helpful and it's been very informative.

12 MR. MCGILLIVRAY: I appreciate your  
13 time.

14 HEARING OFFICER TIPSORD: Mr. Chinn,  
15 Mr. Sterstein, do you have anything to add  
16 today?

17 MR. CHINN: No, thank you.

18 HEARING OFFICER TIPSORD: Before I  
19 close, I do want to note that Mr. John  
20 Henriksen of the Illinois Association of  
21 Aggregate Producers contacted me on Friday.  
22 He indicated that they had not received the  
23 notice of this hearing.

24 A check of the Board's records

1           indicate that, in fact, no notice was sent to  
2           the Illinois Association of Aggregate  
3           Producers. I want to apologize to  
4           Mr. Henriksen and the association for the  
5           oversight. It has been corrected.

6                         Mr. Henriksen did indicate a  
7           willingness to perhaps make comments as part  
8           of the public comment process if he was given  
9           sufficient time; however, the Board is  
10          currently examining his request and the  
11          record of this proceeding and we may, in  
12          fact, hold another hearing in Springfield on  
13          this matter.

14                        We will make that decision  
15          sometime between now and when the transcript  
16          of this hearing is available, and I will  
17          issue a hearing officer order at that time  
18          either setting the matter for an additional  
19          hearing or setting the close of the public  
20          comment period.

21                        And I'll be in contact with you,  
22          Mr. Sternstein and Mr. Chinn; you've been  
23          very active. And I'll also be in contact  
24          with you, Mr. McGillivray, and let you know

1           what we're doing.

2                       Do you have anything else?

3           MR. GIRARD:   Can we go off the record?

4           HEARING OFFICER TIPSORD:   Sure.  Let's  
5           go off the record.

6           THE REPORTER:   Okay.

7                               (Whereupon, a discussion  
8                               was had off the record.)

9           HEARING OFFICER TIPSORD:   We'll go  
10          back on the record.

11                       Did you have anything further?

12          MR. GIRARD:   No.

13                       Thank you for coming.  It's been  
14          very informative, and we look forward to  
15          carrying out the process.

16                       HEARING OFFICER TIPSORD:   Seeing  
17          nothing further, we're adjourned.  Thank you  
18          very much.

19                               (Whereupon, the hearing of the  
20                               above-entitled cause was  
21                               adjourned.)

22

23

24



1 STATE OF ILLINOIS )

2 ) SS.

3 COUNTY OF DUPAGE )

4

5

6 I, MARIA E. SHOCKEY, CSR, do  
7 hereby state that I am a court reporter doing  
8 business in the City of Chicago, County of DuPage,  
9 and State of Illinois; that I reported by means of  
10 machine shorthand the proceedings held in the  
11 foregoing cause, and that the foregoing is a true  
12 and correct transcript of my shorthand notes so  
13 taken as aforesaid.

14

15

16

\_\_\_\_\_  
Maria E. Shockey, CSR  
Notary Public,  
DuPage County, Illinois

17

18

19 SUBSCRIBED AND SWORN TO  
before me this \_\_\_ day  
20 of \_\_\_\_\_, A.D., 2004.

21

22 \_\_\_\_\_  
Notary Public

23

24

