

ILLINOIS POLLUTION CONTROL BOARD

January 4, 2007

WAYNE HASER,)	
)	
Complainant,)	
)	
v.)	PCB 05-216
)	(Citizens Enforcement – Noise)
TNT LOGISTICS NORTH AMERICA INC.,)	
)	
Respondent.)	

HEARING OFFICER ORDER

On December 14, 2006, all parties, including the parties in the related PCB 05-212, PCB 05-213, and PCB 05-217 cases, participated in a telephonic status conference with the hearing officer. Complainant made an oral motion to cancel the hearing previously scheduled for December 18, 19, and 20, 2006. Complainant represented that he recently became aware that his complaint, filed June 17, 2005, only alleged a numeric noise violation under the Board's numeric noise regulations: Section 901.102; Section 901.103; Section 901.104; and Section 901.106. Complainant represented that it was his intention then and now to include a Section 900.102 nuisance violation in his complaint. Complainant argued that to proceed with the previously scheduled hearing would be a waste of time and resources. Complainant filed a written motion to cancel on December 14, 2006, reflecting the same concerns.

Respondent objected to the motion to cancel the hearing and represented that that it was ready to proceed with the hearing.

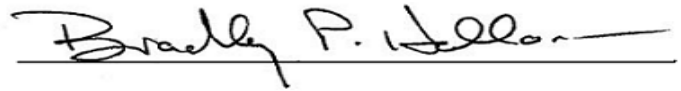
The complainant was made aware of his omission as early as September 1, 2005, where the Board's order clearly set forth the alleged violations. Additionally, the complainant was informed and reminded by the hearing officer a plethora of times during the numerous telephonic status conferences that his complaint only alleged a numeric violation.

Nevertheless, the complainant's motion was granted and the hearing was cancelled. The hearing officer found that the complainant could possibly be materially prejudiced if the hearing was to go forward and that in the interests of administrative efficiency, the hearing must be cancelled.

The complainant was directed to file leave to file an amended complaint and the amended complaint on or before January 5, 2007. Respondent to timely file its response.

The parties or their legal representatives are directed to participate in a telephonic pre-hearing conference with the hearing officer on February 1, 2007, at 12:00 p.m. The telephonic status conference must be initiated by the complainant but each party is nonetheless responsible for its own appearance. At the status conference, the parties must be prepared to discuss the status of the above-captioned matter and their readiness for hearing.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Bradley P. Halloran", is written over a horizontal line.

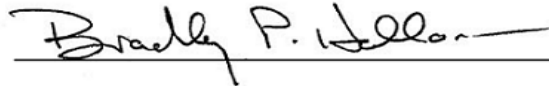
Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, Illinois 60601
312.814.8917

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on January 4, 2007, to each of the persons on the attached service list.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on January 4, 2007:

Dorothy M. Gunn
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Ste. 11-500
Chicago, Illinois 60601

A handwritten signature in black ink, reading "Bradley P. Halloran", is written over a horizontal line.

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
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