

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE
FEB 10 2016

STATE OF ILLINOIS
Pollution Control Board

MATT GILL,)	
)	
Complainant,)	
)	
v.)	PCB 16-68
)	(Citizens Enforcement-Noise)
CHS, INC. - CARROLLTON FARMERS)	
ELEVATOR)	
)	
Respondent.)	

 ORIGINAL

ANSWER and AFFIRMATIVE DEFENSES

Respondent, CHS INC., by and through its attorney, JEFFERY A. SEPESI,
answers the Complaint of MATT GILL as follows:

I. Answer

1. Your Contact Information

Name:	Matt Gill
Street Address:	RR 1 Box 3 Carrollton, IL 62016
County:	Greene
State:	Illinois
Phone Number:	(217) 942-3974

ANSWER: Respondent has insufficient knowledge to form a belief as to the accuracy of the information in paragraph 1.

2. Place where you can be contacted during normal business hours

Name:	Matt Gill Illinois EPA
Street Address:	1021 North Grand Avenue East Springfield, IL 62794-9276
County:	Sangamon
State:	Illinois
Phone Number:	(217) 782-9315

ANSWER: Respondent has insufficient knowledge to form a belief as to the accuracy of the information in paragraph 2.

3. **Name and address of the respondent (alleged polluter)**

Name: CHS Inc. - Carrollton Farmers Elevator
Street Address: 201 South Main Street
Carrollton, IL 62016
County: Greene
State: Illinois
Phone Number: (217) 942-6922

ANSWER: Respondent denies the allegations in paragraph 3 to the extent it names Respondent as CHS, Inc. - Carrollton Farmers Elevator. Respondent's name is CHS Inc. The facility in question was formerly operated by the Carrollton Farmers Elevator. It is now owned by CHS Inc. Respondent admits that the address provided in paragraph 3 is correct.

4. Describe the type of business or activity that you allege is causing or allowing pollution (e.g., manufacturing company, home repair shop) and give the address of the pollution source if different than the address above.

Temporary Flat Grain Storage Facility and New Grain Storage Bin located on East edge of Carrollton, Illinois. The facility is located approximately 0.5 miles west of my home. (See attached aerial photograph.)

ANSWER: Respondent admits that the Carrollton facility stores grain, but denies that paragraph 4 accurately describes the names or the current activities of the areas identified in the Complaint. Respondent admits that the Carrollton facility is generally within 0.5 miles of Complainants home, although some features may be closer or farther than 0.5 miles.

5. List specific sections of the Environmental Protection Act, Board regulations, Board order, or permit that you allege have been or are being violated.

*35 Ill. Adm. Code Section 901.102(a)
35 Ill. Adm. Code Section 901.102(b)*

ANSWER: Respondent admits that the Complainant has accurately cited Board regulations that address noise, but denies any allegation implied by paragraph 5 that Respondent has violated these regulations.

6. Describe the type of pollution that you allege (e.g., air, odor, noise, water, sewer back-ups, hazardous waste) and the location of the alleged pollution. Be as specific as you reasonably can in describing the alleged pollution.

Noise Pollution that exceeds the limits allowed at 35 Ill. Adm. Code Section 901.102(a) and (b). Specifically, the sound level significantly exceeds the octave band center frequency (hertz) at 500, 1000 and 2000 Hz ranges. Sound pressure level measurements were made using 35 Ill. Adm. Code Section 910.105 as guidance in gathering data.

ANSWER: Respondent has insufficient knowledge to form a belief as to the accuracy of the information in paragraph 6. To the extent an answer is required, Respondent denies the allegations of paragraph 6.

7. Describe the duration and frequency of the alleged pollution. Be as specific as you reasonably can about when you first noticed the alleged pollution, how frequently it occurs, and whether it is still continuing (include seasons of the year, dates, and times of day if known).

The pollution occurs every year beginning with the fall corn harvest and continues intermittently until the corn is removed from the storage units in the spring. The existing flat storage unit has been used for several seasons. The New 1 500,000 bushel grain storage bin was constructed this summer and has not completely started up yet. There are 10 blowers on the bin and only 1 or 2 have begun operation. I am concerned when all of the blowers are in operation, the noise levels will be even higher than they are now. Sound pressure level measurements were made on three occasions between December 1, 2015 and December 10, 2015 during nighttime hours and were up to 14 dB over the limit specified at 35 Ill. Adm. Code Section 901.102(b). Note: I am a Professional Engineer licensed in the State of Illinois.

ANSWER: Respondent denies the allegations of the first sentence of paragraph 7.

Respondent admits that the allegations of the second through fourth sentences of paragraph 7. Respondent has insufficient knowledge to form a belief as to the accuracy

of the information in fifth sentence of paragraph 7 because it does not provide a statement of fact. To the extent an answer is required, Respondent denies the allegations of this sentence. Respondent has insufficient knowledge to form a belief as to the accuracy of the information in sixth sentence of paragraph 7. To the extent an answer is required, respondent denies the allegations of this sentence. Respondent has insufficient knowledge to form a belief as to the accuracy of the information in last sentence of paragraph 7.

8. Describe any bad effects that you believe the alleged pollution has or has had on human health, on plant or animal life, on the environment, on the enjoyment of life or property, or on any lawful business or activity.

This noise pollution has affected my family's quality of life, caused sleep problems for my wife and myself and decreased my property's value. We purchased this property in 1992 for peace and quiet and have had neither whenever the grain blowers are operating. Our home was built in 1868 and is listed individually in the National Register of Historic Places (the Henry T. Rainey Estate).

ANSWER: Respondent has insufficient knowledge to form a belief as to the accuracy of the allegations of first two sentences of paragraph 7. To the extent these sentences imply that respondent has violated any Board regulation or the Environmental Protection Act, respondent denies the allegations.

9. Describe the relief that you seek from the Board (e.g., an order requiring that the respondent stop polluting, take pollution abatement measures, perform a cleanup, reimburse cleanup costs, change its operation, or pay a civil penalty (note that the Board cannot order the respondent to pay your attorney fees or any out-of-pocket expenses that you incur by pursuing an enforcement action)).

I seek an order requiring the respondent to stop exceeding the noise levels allowed by the Ill. Adm. Code, with stipulated fines (civil penalties) for any future violations, along with monitoring and reporting requirements. (Pursuant to Section 42(a) of the Environmental Protection Act, the civil penalty shall not exceed \$50,000 for the violation and an additional civil penalty shall not exceed \$10,000 for each day during which the violation continues.) In order to

demonstrate continuous compliance, the respondent should be required to provide third party noise monitoring which conforms to 35111. Adm. Code 910.105, including monthly testing in any calendar month in which the blowers operate for more than seven days. The testing should be conducted at the closest residential receiving land or the respondent's property lines since there are other residential property owners closer to the noise source than my residence. An annual compliance report sent to the IPCB and published in a local newspaper should also be required.

ANSWER: Paragraph 9 conveys the relief Complainant seeks and not any factual allegations to which a response is required. To the extent paragraph 9 implies that respondent has violated any Board regulation or the Environmental Protection Act, respondent denies the allegations. Respondent further denies the need for any relief sought by Complainant as prayed for in paragraph 9.

10. Identify any identical or substantially similar case you know of brought before the Board or in another forum against this respondent for the same alleged pollution (note that you need not include any complaints made to the Illinois Environmental Protection Agency or any unit of local government).

None known.

ANSWER: Paragraph 10 does not convey any factual allegations to which a response is required.

11. State whether you are representing (a) yourself as an individual or (b) your unincorporated sole proprietorship. Also, state whether you are an attorney and, if so, whether you are licensed and registered to practice law in Illinois. (Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. Also, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, an individual who is not an attorney is allowed to represent (a) himself or herself as an individual or (b) his or her unincorporated sole proprietorship, though the individual may prefer having attorney representation.)


I am representing myself as an individual and I am not an attorney.

ANSWER: Paragraph 10 does not convey any factual allegations to which a response is required.

II. Affirmative Defenses

As Respondent's investigation into this matter proceeds, it may identify affirmative defenses. Consistent with Board Rule 103.204(d), as affirmative defenses are identified, they will be set out in a supplemental Answer prior to hearing. Accordingly, Respondent expressly does not waive any available affirmative defenses it may now, or in the future, have.

Respectfully submitted,

By: 
One of the attorneys for Respondent CHS INC.

Dated: February 8, 2016

Jeffery A. Sepesi (ARDC No. 6230245)
Law Office of Jeffery Sepesi
8389 Seneca Pointe
Eden Prairie, MN 55347
Telephone: (952) 426-8279
j.sepesi@att.net

RECEIVED
CLERK'S OFFICE

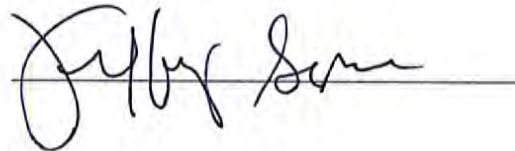
BEFORE THE ILLINOIS POLLUTION CONTROL BOARD FEB 10 2016

STATE OF ILLINOIS
Pollution Control Board

MATT GILL,)
)
 Complainant,)
)
 v.) PCB 16-68
) (Citizens Enforcement-Noise)
 CHS, INC. - CARROLLTON FARMERS)
 ELEVATOR)
)
 Respondent.)

APPEARENCE

I hereby file my appearance in this proceeding, on behalf of CHS INC. who is named as the Respondent in the above cause.



Jeffery A. Sepesi (ARDC No. 6230245)
Law Office of Jeffery Sepesi
8389 Seneca Pointe
Eden Prairie, MN 55347
Telephone: (952) 426-8279
j.sepesi@att.net

RECEIVED
CLERK'S OFFICE

FEB 10 2016

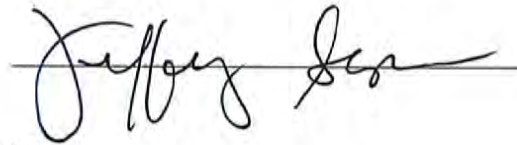
STATE OF ILLINOIS
Pollution Control Board

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached APPEARANCE and ANSWER upon the following persons via US Mail on February 8, 2016:

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274

Matt Gill
Complainant
RR 1 Box 3
Carrollton, IL 62016



Jeffery A. Sepesi (ARDC No. 6230245)
Law Office of Jeffery Sepesi
8389 Seneca Pointe
Eden Prairie, MN 55347
Telephone: (952) 426-8279
j.sepesi@att.net

RECEIVED
CLERK'S OFFICE

FEB 10 2016

STATE OF ILLINOIS
Pollution Control Board

Law Office of Jeffery A. Sepesi
8389 Seneca Pointe
Eden Prairie, MN 55347

Admitted: MN & IL

Telephone: 952-426-8279

Email: j.sepesi@att.net

February 8, 2016

Pollution Control Board, Attn: Clerk
100 W. Randolph St.
James R. Thompson Ctr., Ste. 11-500
Chicago, IL 60601-3218

Re: Matt Gill vs. CHS Inc., PCB 16-68 (Citizens Enforcement-Noise)

Dear Clerk of the Illinois Pollution Control Board:

Please find enclosed the original and three copies of Appearance and Answer and Certificate of Service in regard to the above-entitled case. Please contact me if there are any questions with this filing.

Best regards,


Jeffery A. Sepesi

cc: Naomi Moore