

ILLINOIS POLLUTION CONTROL BOARD
November 7, 1985

IN THE MATTER OF:)
)
GENERAL MOTORS CORPORATION) R83-7
PROPOSED AMENDMENTS TO)
35 ILL. ADM. CODE 900.103)
and 901.104)

DISSENTING OPINION (by B. Forcade and J. D. Dumelle):

We dissent from the majority action because it is an ill-advised relaxation of a well established standard, will not provide the relief General Motors seeks, will essentially eradicate an already weakened noise control program, and provides very vague guidance on what standards actually apply.

First, it is beyond dispute that the proposed replacement of the existing decibel levels with the Leq standard will represent a significant relaxation of the regulations except as applied to a continuous source of constant noise level. The decibel level is an instantaneous level never to be exceeded. The Leq is a one hour logarithmic average. The majority provides no explanation for a significant relaxation under the guise of a modified testing protocol. The existing standards have served the State well for many years and it seems bad practice to relax a statewide standard as an attempt to resolve a few localized problems.

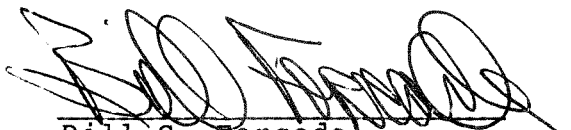
Second, the regulatory change will not solve General Motor's problems. The Board's noise regulations are an attempt to prevent noise problems by establishing general numerical standards that reflect community annoyance levels. The numbers do not prevent noise annoyance. If the Board finalizes these regulations the citizens of Thilton (who have already complained about noise) will not cease to exist, nor will their complaints. Moreover, the problem can still be brought to this Board for relief under existing noise regulations [Noise Pollution Rule 102: Now 35 Ill. Adm. Code 900.102]. Thus, the rule change will not solve the problem that prompted it.

Most importantly, this subtle rule change will essentially eradicate what little noise program that remains in Illinois. None of the Agency's existing 35 noise meters have the capacity to measure Leq. These meters are used by the Agency and loaned to local governments. With the complete elimination of Federal funds for noise control, the severe cutbacks at the State level, this minor measurement change will decimate noise control, except by the "annoyance" standard. This Board has always sought

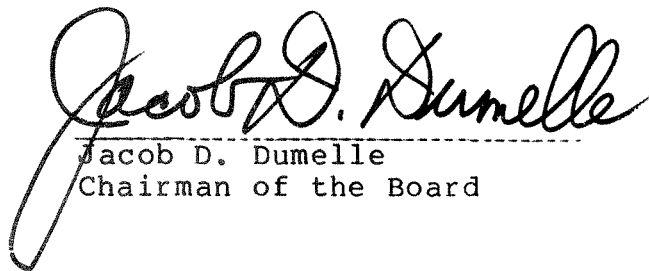
numerical support for its "annoyance" cases but now it eliminates the utility of the equipment that would provide it.

Lastly, the proposed regulatory change provides only vague guidance about when Leq should apply. Basically, one-hour Leq is to apply in all cases except where another time period or measurement standard provides a higher degree of correlation with human response. Presumably this is a recognition by the majority that if people still complain, there still must be a noise problem. However, the standard is vague as to how that correlation is to be established or what human population is to be considered (those next to the source or some national average). Since the complainant has the burden of demonstrating that the "alternative" standard has a higher correlation with human response it is unlikely this Board will see many cases brought under alternative numerical standards.

There is great wisdom in the idiomatic statement, "If it ain't broke, don't fit it". There is no evidence in this proceeding that the existing Statewide standards are flawed, and the proposed cure fixes nothing. Lastly, that remedy is itself flawed and vague.

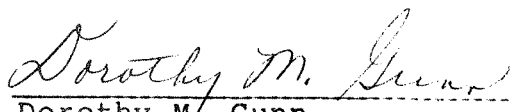


Bill S. Forcade
Member of the Board



Jacob D. Dumelle
Chairman of the Board

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Dissenting Opinion was submitted on the 9th day of December, 1985.



Dorothy M. Gunn
Clerk of the Board