Glenda Wiles

From: Mike Cook <mike@intindustrial.com>
Sent: Friday, September 21, 2018 2:01 PM
To: 'Julie Foster'; Greg Chilcott; Jeff Burrows; Ray Hawk; Doug Schallenberger; Chris A. Hoffman; Glenda Wiles
Cc: Howard Recht; cathi@intindustrial.com
Subject: RE: New Local Businees Facing Lawsuit
Attachments: 45-8-111. Public nuisance, MCA.PDF; 2018.03.20 Intermountain's Expert Disclosure.pdf

To All,

I currently own a fabrication shop on Middle Bear Creek Road outside of Victor. We are being sued by neighbors owning 4 different properties around us that claim our operation is a public nuisance. I have been told Ravalli County does not have its own public nuisance law and uses to the state public nuisance law which is attached. I have also attached the credentials of our expert witness who is an acoustic consultant and sound engineer and the results of the first tests he has done at our operation in preparation for the pending litigation. I need clarification on the terms and standards Ravalli County uses in determining a public nuisance.

1) Does Ravalli County consider a fabrication shop a facility as listed in Section 4 of the Public Nuisance Law 45-8-111?
2) Does Ravalli County use the HUD standards to determine allowable noise for different types of properties and their uses?
3) If HUD standards are not used what standards are followed to determine allowable noise?

The property we currently occupy was previously used by Bear Creek Timberwrights. It was used as an industrial site to fabricate timber frame houses and buildings from January of 1997 to the end of 2012 when they filed for bankruptcy. All of the property owners listed as plaintiffs in the lawsuit purchased their properties after Bear Creek Timberwrights operations had started.

If any of you would like to see or tour our operation our hours are 7:00 am to 5:30 pm Monday through Thursday. If you need additional information please email or call.

Thank you,
Mike Cook
Intermountain Industrial, Inc.
PO Box 23
1937 Middle Bear Creek Road
Victor, MT 59875
(406) 642-3294
(406) 642-3747 fax

From: Julie Foster [mailto:julie@rceda.org]
Sent: Monday, August 14, 2017 11:01 AM
To: Greg Chilcott; 'Jeff Burrows'; 'Ray Hawk'; 'Doug Schallenberger'; 'Chris A. Hoffman'; 'Glenda Wiles'
Cc: 'Howard Recht'; mike@intindustrial.com
Subject: FW: New Local Businees Facing Lawsuit

Good Morning Commissioners,

I just spoke with Mike Cook who sent me the email below. Mike gave me his permission to forward the correspondence to you. Mr. Cook's company, Intermountain Industrial, Inc. has 10 employees earning an average wage of $20 per hour. The business provides a matching 401k and pays 75% of the employee health insurance. Mike understands that there is

no zoning in Ravalli County however on the cadastral it is listed as commercial. Prior to Mr. Cook purchasing the land it was bank owned. As you can see the property taxes are current and no penalties are listed from the time that they owned the property.
Mike has asked if RCEDA can offer any assistance. I told Mike I don't know what we can do other than to provide support and thank him for having a business in Ravalli County and creating good paying jobs. Mike has not yet reached out to the Commissioners. Could we please set up a time for Mike to meet with the Commissioners and tell you about his company?

Thank you.

Julie

From: Mike Cook [mailto:mike@intindustrial.com]
Sent: Saturday, August 12, 2017 3:35 PM
To: julie@rceda.org
Subject: New Local Businees Facing Lawsuit

Julie,

We moved into the buildings abandoned by Bear Creek Timber Wrights 3 years after they filed for bankruptcy. They walked away the power was turned off and subsequently the plumbing froze, roof started leaking, sheet rock started falling off the ceiling, etc. we purchased the property in 2015. It took a significant investment on our part to make the building habitable again. We also made a significant investment upgrading the power, building a paint shop (permitted by the State of Montana), and moving our operation form Lolo. We did this with our own money and loans with no grants or other assistance. Now that we have cleaned up the mess left by the previous owners our neighbors have filed a lawsuit trying to force us to leave. This has been zoned a commercial property since 1995 before any of our neighbors moved in. We are the only business in this area that actually operates on property that is zoned commercial. There are several businesses (including one owned by plaintiffs Scot and Julie Fillingham)located here that all operate on residential property and none of them are facing a lawsuit. According to Mike Carter the previous shop foreman for Bear Creek Timberwrights we make less noise then they did for the 16 years he worked for them.

Do you offer any assistance for the problem we are now facing? It appears your job would become significantly more difficult if our neighbors are successful in this suit. A company is forced off of its commercial property in a county with no zoning laws.

Thanks,
Mike Cook
Intermountain Industrial, Inc.
PO Box 23
1937 Middle Bear Creek Road
Victor, MT 59875
(406) 642-3294
(406) 642-3747 fax

Montana Code Annotated 2017

TITLE 45. CRIMES
CHAPTER 8. OFFENSES AGAINST PUBLIC ORDER
Part 1. Conduct Disruptive of Public Order

Public Nuisance

45-8-111. Public nuisance. (1) "Public nuisance" means:

(a) a condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood or by any considerable number of persons;

(b) any premises where persons gather for the purpose of engaging in unlawful conduct; or

(c) a condition that renders dangerous for passage any public highway or right-of-way or waters used by the public.

(2) A person commits the offense of maintaining a public nuisance if the person knowingly creates, conducts, or maintains a public nuisance.

(3) Any act that affects an entire community or neighborhood or any considerable number of persons, as specified in subsection (1)(a), is no less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal.

(4) An agricultural or farming operation, a place, an establishment, or a facility or any of its appurtenances or the operation of those things is not or does not become a public nuisance because of its normal operation as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation longer than the complaining resident has been in possession or the commercial establishment has been in operation.

(5) Noises resulting from the shooting activities at a shooting range during established hours of operation are not considered a public nuisance.

(6) A person convicted of maintaining a public nuisance shall be fined an amount not to exceed $500. Each day of the conduct constitutes a separate offense.

History: En. 94-8-107 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 30, Ch. 359, L. 1977; R.C.M. 1947, 94-8-107(1) thru (4); amd. Sec. 2, Ch. 123, L. 1981; amd. Sec. 9, Ch. 415, L. 1991; amd. Sec. 1697, Ch. 56, L. 2009; amd. Sec. 18, Ch. 321, L. 2017.

Devin Jackson
P.O. Box 8332
Missoula, MT 59807
(406) 239-5304
jsmpro@yahoo.com

EDUCATION
1998-1999 - The Recording Workshop
Ohio State University - School of Broadcast Journalism
- -Certified as Recording Engineer Aug. 1998
- -Certified New Technologies Program Aug 1999
- -Studies focused on Music Recording but included Studio Acoustics and Waveform identification

WORK HISTORY
2015 - Present - Global Specialty Products LTD
Outside Contractor
- -Head of Dosimetry
- -Acoustic modeling, design, and testing
- -Dosimeter Training

2008 - Present - Kellet Enterprises Inc
Outside Contractor/Sales Rep
- -Vibration & Shock test equipment advisor
- -Vibration & Shock dosimetry collection and analysis
- -New Product performance testing/sales

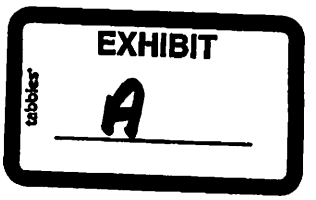
2004 - Present - Missoula County Housing and Development
Outside Contractor
- -On site dosimetry
- -Acoustic modeling and design
- -HUD Noise Guideline compliance tester

2003 - Present - Surfacing Solution Inc
Outside Contractor/Sales Rep
- -Head of Dosimetry
- -Acoustic modeling, design, sales, testing, and installation

2002-2003 Tectum (later a division of Armstrong Wood Industries)
Outside Contractor
- -Acoustic modeling, installation, and testing
- -New product design with a focus on Industrial application

2002 - Present - Pinta Acoustic (A Harman International Company) (formerly Illbruck)
Outside Contractor/Sales Rep
- -Acoustic modeling, design, testing, installation and sales
- -Dosimeter of Record for many major projects

2002 - Present - Noise Suppression Technologies Inc.
Outside Contractor/Sales Rep
- -Acoustic modeling, design, testing, installation and sales
- -Focus on Industrial Application of existing products



2002-Present - P.G.S. Broadcast Media Services
Acoustician/Head of Testing/Technical advisor
-Head of environmental testing
-Acoustic modeling, design, sales and installation
-Sound System Installation and service
-Training focused on Acoustic modeling, design, and application

2002 - Present - Jackson Sound Management Productions (self)
Audio Engineer-Environmental Testing
-Environmental Testing focused on Audio dosimetry
-Acoustic modeling, design, sales, and installation
-Professional Grade A/V system design, installation, and service

2001-2002 Electronic Services Unlimited
Electronic Repair Technician
-Repair electronic devices (mostly audio)
-Create a "Home Theater" division

2000-2001 - Ritz on Ryman
Live Sound Engineer
-Run and mix nightly musical acts
-Sound System advisor
-Acoustic design

1997-2002 - P.G.S. Broadcast Media Services
Apprentice
-Dosimeter technician
-Acoustic Installation
-Sound System Installation and Service
-Training focused on Acoustic modeling, design, and application

NOTABLE ACCOMPLISHMENTS
Dosimetry and analysis included in the National Register of Historic Places for multiple projects including (but not limited to), The Wilma Theater in Missoula MT, multiple facilities on the University of Montana Campus, and the Rialto Theater in Deer Lodge, MT

Environmental Testing successfully used in numerous lawsuits, facility use waivers, government impact reports, and grant applications

AWARDS
2016 - Moonacy Music Room CODA Top 10 - My designs and facility testing for the Moonacy Music Room were recognized by the Collaboration of Design and Art as on one of the top 10 Projects of the Year
2011 - Victor School Theater Awarded Mary Stuart Rodgers Endowment for performing arts facilities

OTHER SKILLS
Trained in use of multiple dosimeters from manufacturers such as, NTi, Ivie, CEL, Bruell, and others
Completed Training for HUD Noise Assesments
Completed Training for OSHA/FDA Compliance Testing for Noise Levels
Completed Shock and Vibration Testing training from Shock and Vibration Exchange (SAVE)

J.S.M. Productions

P.O. Box 8332 Missoula, MT 59807
Phone: (406) 493-1128 Cell: (406) 239-5304
E-Mail: jsmpro@yahoo.com

3/16/18

Intermountain Industrial Inc
PO Box 23
1937 Middle Bear Creek Road
Victor, MT 59875
406-642-3294

Rural Victor Environmental Noise Assessment

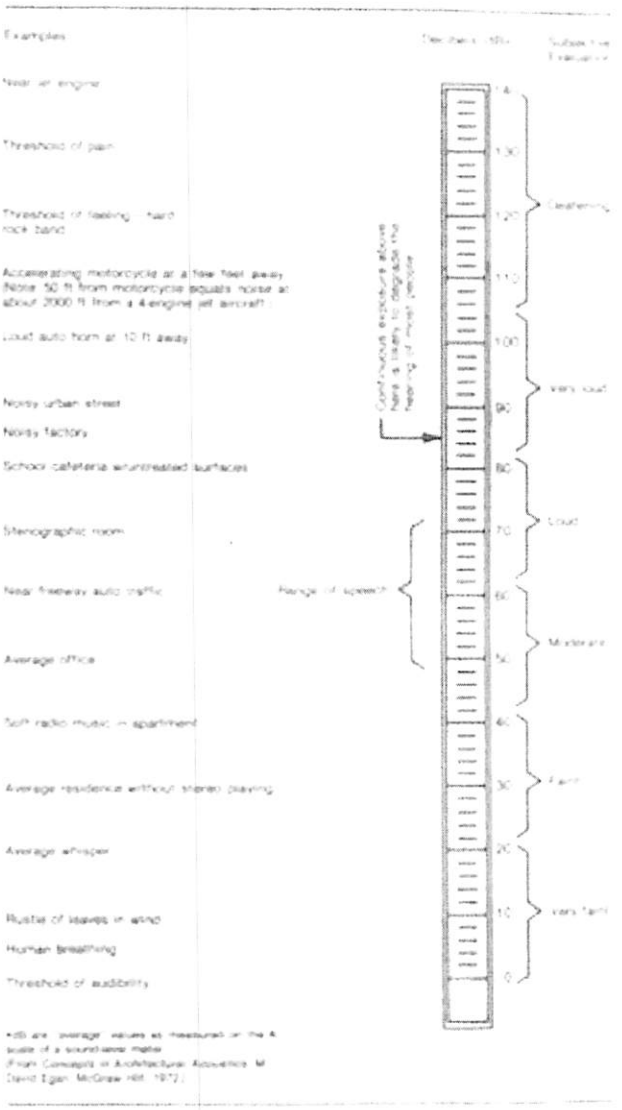
On February 28th, March 5th, March 8th, and the night of March 15th of 2018, I took sound level readings and site observations on an around the public roads and private properties in the industrial and residential areas known as Intermountain Industrial Inc., 1937 Middle Bear Creek Rd. These readings were taken at the request of DM&L Attorneys at Law, and consisted mostly of background noise assessments to determine the base operating sound levels of the area. Traffic assessment worksheets were also compiled by me. This report contains my professional assessment of those tests and observations. Any assessments I make about the site can be verified in the plot data or on the Intermountain site itself.

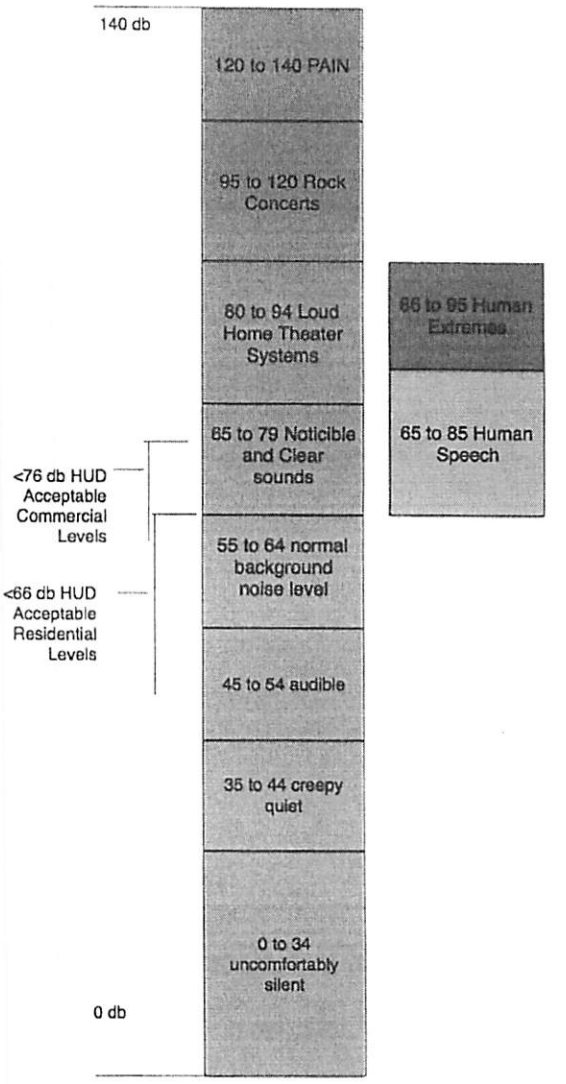
There are three basic parts to this assessment. First is to establish what the existing background noise level is in the area durning normal business operation. In the second section I show the expected sound levels to be found at the site. Finally I will address the evidence shared with me by the complainants attorneys, including the report filed by Dr. Autenrieth. The results of these assessments are the reason I feel comfortable saying that: *The normal operation of Intermountain Industrial does not create enough sound to be considered a noise nuisance to the surrounding area.*

Live tests were taken on Intermountain property. These tests were performed to the standards described in the American Society for Testing and Materials International (ASTM) E1903 guidelines. The audio tests were performed with a NTI Audio XL2 analyzer with a MA 220 Microphone, exceeding the specs for noise dosimetry defined by ASTM's partner the American National Standards Institute (ANSI). The meter's license, calibration data, and microphone specs are available from Jeremy Fistrovich at Global Specialty Products at (952) 448-3808: 2480 Chaska Blvd, Chaska, MN 55318. All readings have an audio recording, SPL Log, and 3rd Octave frequency readouts. Weather conditions can be provided upon request.

Terms that will be used:
decibel (db): a unit used to measure the intensity of a sound
A weighting db(A): a scale used to adjust the db of sound to the hearing capabilities of the human ear
Linear Weighted Average (Leq): an average created by assessing the exposure to changing levels over time
Day-Night Level (DNL): an Leq made over a 24 hour period with weighting added to sounds made between 10pm and 7am

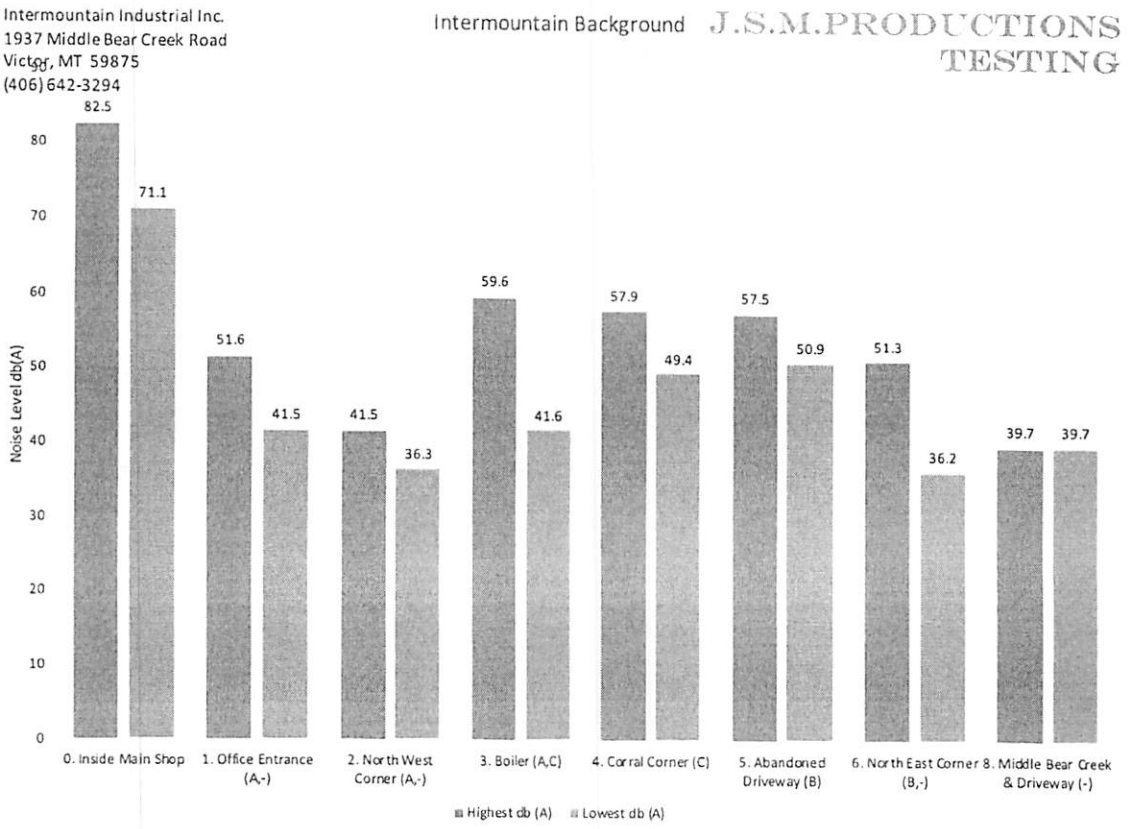
In Ravalli County there are no noise regulations or defined noise standards, this means there are no legal limitations on how much sound Intermountain can create. There are national recommendations, so for comparison I will use commonly accepted government suggestions. The Environmental Protections Agency (EPA) states strongly that these are not National Standards only recommendations. Below are reference graphs that show the current government opinions. The one on the left is from the Housing and Urban Development (HUD) *Noise Guidebook (2009).* This guidebook is available at https://www.hudexchange.info/resource/313/hud-noise-guidebook/ or upon request from HUD. The chart on the right is one I created for customer reference.





Live measurements were taken on site for two reasons. First was that because this is a complaint, accurate real world performance during the specific hours of operations is what is in question. The second is that the HUD Guidebook states that, "While it is the preferred procedure to calculate noise, there are a few situations where the noise models might not be accurate and it might be better to rely on measurements. One instance would be when there is insufficient or inadequate traffic data." In this case there is no available traffic data for Middle Bear Creek Road, so measurements were used to assess site exposure to all noise. There are many readings used to establish a background composite of an area as large as this. The fence immediately bordering the properties to the North received most of the recordings to establish what that area is exposed to during normal operation at Intermountain. Below is a map of where the readings were taken the numbers will correspond to readings listed in the graphs.

The location of the Primary Noise sources are indicated by the letters (the letters will also be used to indicate which noise source was in use at the time of the readings used on the graphs):
A: Shear Press (located inside the Main Shop)
B: Sandblaster (generator located outside, spray nozzle located inside building)
C: Shipping loading and unloading (includes, semi-trailer, and 2 fork lifts)



This graph on the shows actual Sound Pressure Levels (SPL) measured in Decibels (db) with A-weighting applied as defined by ASTM E1903. These represent the highest and the lowest Linear Wighted Averages (Leq) from the recordings made at each location. The differences are noticeable and the logarithmic nature of sound means that every 10 (db) of difference means double the volume. So in this case the loudest reading outside the main office door was twice as loud as the quietest reading.

All of the readings are A weighted. To clarify, Sound Pressure Level (SPL) is measured by the pressure created across the frequencies humans can hear or feel. The microphone used for these readings detects from 6 hertz (6Hz) to 22,000 hertz (22kHz) However our ear only hears from 20Hz to 20kHz and it doesn't hear all frequencies equally. The EPA, DOT, HHS, and HUD standard is to adjust these readings to the A-Weighted Curve (db(A)) as defined by ASTM and ANSI. The use of db(A) gives us a more accurate look at what a human is hearing during any of these recordings.

The loudest Leq(A) recorded were recorded inside the actual workshop. The other readings were recorded at the property boundary and represent the loudest exposure possible on the adjacent properties during the time the readings were taken. The EPA, in *Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety* (available at epa.gov), defines levels <75db(A) Leq(24hrs) as safe for the

Health and Welfare. These measurements taken at peak noise operation show that the exposure on surrounding properties is far below these levels. *It would be nearly impossible for Intermountain Industrial Inc. to exceed these levels at their property boundaries under the observed operating conditions.*

The HUD Guidebook also allows for other weighting. The most applicable weighting to this situation is what is defined as "*Loud Impulsive Sounds*". A Loud Impulsive Sound is a sound is definable as a discrete event wherein the sound level increases to a maximum and then decreases in a total time interval of approximately one second or less to the ambient background level that exists without the sound. The shear press and some of the sounds created by loading and unloading can qualify as Loud Impulsive Sounds. If Loud Impulsive Sounds are present 8db should be added to the LeqA (24 hour). Even if we add 8 db to the loudest LeqA (15 minute) recorded at the property line we still only get 67.6dbA 15 minute exposure, well below the >75dbA 24 hour exposure required for "Health Problems" as defined by the EPA. (At this point I would like to note that during my observations the loudest "Loud Impulsive Sounds" came from the dog kennels on the property described to me as the "Bates'") The only other applicable weighting allowed is for Night Sounds. Any noise recorded between 10pm and 7am is classified as "Night noise" and should have 10db added to the LeqA for that period of time. As this is not normal hours of operation for the facility, Intermountain Industrial Inc. can not be held responsible for those noises so this weighting does not apply.

The HUD Guidebook defines acceptable volumes for different Land Use Catagories. The Guidebook then classifies the levels as Clearly Acceptable, Normally Acceptable, Normally Unacceptable, and Clearly Unacceptable:
"*Commercial - Industrial, Utility, Wholesale*" <70db(A) (24hrs) is "**Clearly Acceptable**"
"*All types of Residential*" <60db(A) (24hrs) is "**Clearly Acceptable**"
"*Extensive Natural Recreation Areas*" <60db(A) (24hrs) is "**Clearly Acceptable**"
The most extreme recommendation is:
"*Playgrounds, Neighborhood Parks*" <55db(A) (24hrs) is "**Clearly Acceptable**".

My observations on site indicate that Intermountain Industrial Inc. is consistently operating below these levels. Since this location has been operating as a commercial area for many years and the use has not changed it is reasonable for the owner to assume that they are using the facility as intended, and under current National recommendations no noise abatement measures are required.

The recordings I took at night indicated that the Noise Floor in the area is very low. The dogs at the Fillinghams' location often reached similar numbers to the equipment used by Intermountain but at night they did not last as long. The noise floor is near 35db(A), this means when Intermountain starts work at 7AM the change is sharp. In these conduitions you can hear a truck on the road miles away, so the sudden increase of the SPL increases the perceived volume by four. Since noise is by definition "unwanted sound" such an increase could feel drastic on occasion, but it is still well below "Clearly Acceptable" levels. This indicates that most often noise complaints are what I describe as a perception issue. I can't tell anyone a noise isn't loud I can only quantify how much power is behind it.

The other method for determining environmental noise exposure as outlined in the HUD Guidebook is with models. These models use established methods to determine site exposure to Roadway, Aircraft, and Railway noise. There are two reasons these are not the best tool for this complaint. First is that the complaint is not about noise created by the Roadway, it's about noise created by the facility. The second is that these models are designed to be used in high traffic areas where data is readily available, this site is neither of those. Since Railway and Aircraft noise at the site are almost imperceptible, the only applicable exposure is from Roadway noise.

Since there is no traffic information available for Middle Bear Creek Road and Red Crow Road, these models were done with observations made by the owner of Intermountain Industrial Inc. The main Roadway Noise source is Heavy Trucks from the sand/gravel mine further up Middle Bear Creek Road. At peak production in the summer it is reported that they can haul 15 loads from the mine, which means 30 trips up and down Middle Bear Creek Road with Heavy Trucks. The other problem with standard roadway models in this case is that they are designed for constant traffic flow, this is intermittent travel. Still the worksheets and tables for this low amount of traffic does produce a number.

As indicated in the HUD Worksheets attached to this report, on the Intermountain Industrial Inc. site bordering the roadway, the HUD models show a projected Daily Noise Level (DNL) (defined in this paper as Leq(24hrs)) is a very high 75 db(A). That 75db(A) DNL extends to a large portion of the lot identified as Fillinghams', because there is no attenuation between it and the Roadway. A DNL of 75db(A) is the exact level at which the EPA considers noise a threat to Health. This in no way accounts for the noise created by Intermountain Industrial, it is only because of Roadway Noise on a County Road, and the County would then be responsible for any abatement. This is clearly not the actual DNL on site as the testing indicates, and is another reason why we use testing in these rural environments instead of relying on models.

In cases where testing is required the process for making a DNL is a long one, requiring at least 5, one hour readings for every hour of the day, only taken on Tuesday, Wednesday, or Thursday, not near the holidays, during "nominal" weather. Because I had less than a month in February and March this was not possible. The readings I took were primarily focused on the hours of work and verifying that levels were below posing a risk to health. The readings were taken in colder weather allowing the sound to carry further and last longer. Using the data collected I extrapolated a very rough estimate of the DNL at one location. On the North property boundary where it crosses the abandoned driveway (the property line with the most exposure) the **estimated DNL is 56.2db(A) Leq(24hrs)**. This estimate based on the limited testing available indicates that Intermountain Industrial Inc. would have to double their volume, then double it again before operating (for a short time) at the roadway noise levels predicted by the EPA/HUD models for 24 hour periods.

The evidence shared with me for the purpose of my review is very limited when it comes to quantifiable data. The most compelling is what appears to be many pages of dosimetry readings. As an audio engineer I wanted to make sense out of what I saw but unfortunately that is impossible with just these pages. There are a number of requirements for accurate Environmental Sound Evaluations as laid out in ASTM E1903 (the protocol required by the HUD Guidebook). These guidelines include documenting; the distance from the noise source, the weighting the readings were taken in, and device(s) used to take the readings. None of this data is included, making the readings totally useless to any audio engineer.

There are some conclusions I can reach from the information shared. Most obvious is that these readings were not taken by a trained technician. The unchanging levels suggest to me that the meter was placed in direct proximity to a noise source. If I set my meter on a Heating Pump I can get a 92db reading for as long as it sits there, but it is not indicative of the actual noise level in the area around that Heat Pump. Sound is produced in waves so it has to fluctuate, proximity to a constant noise source is the only way to achieve readings consistent to the decimal point over long periods of time.

The readings shared with me were most likely taken without weighting. Sound Pressure Level is a measurement of air pressure levels, but the human ear doesn't hear all sounds. Much like your eyes don't see Infrared or Ultraviolet but cameras still record them, your ears don't hear Subsonics and Ultrasonics but microphones still pick them up. Dosimeters are capable of measuring these levels, but they are not used for determining human exposure. These readings are called unweighted and are indicated by db, or db(Z). The problem is there is no way to convert Leq(Z) readings to Leq(A). The A weighted readings are based on our hearing so for example, if I have a 90db(Z) reading that is mostly Subsonic it could be as low as 35db(A) but if I took a 90db(Z) reading at a concert it would probably be close to 85db(A). This is why I use a meter that records the full spectrum of audio frequencies so that anyone can apply A weighting as defined by ASTM E1903.

One other conclusion my observations suggest, is that these readings were not actually recorded in Leq. Linear Weighted Average is just one of the various logs most dosimeters can capture. Linear Maximum (Lmax) is the maximum volume sustained for over 4 seconds. Linear Peak (Lpk) is the loudest volume recorded regardless of length. Based on the high readings and the consistency it is very likely that all of the readings shared with me from the Plaintiff were taken in Lmax(Z) instead of the required Leq(A).

The other expert evidence shared with me is the expected testimony of Dr Daniel Autenrieth. I recognize his expertise on the subject of Environmental Sound. I have a copy of his book and while it is not my definitive source on the subject of acoustics, it is very useful. With regards to the potential testimony shared with me there are some things that I have observed in my 19 years as a practicing acoustic engineer. First is that his testimony often refers to the EPA/ HUD document shared at the beginning of this report. This document was written in 1974 and HUD has made significant updates to that document since then. The Guidebook cited in this report is based on that initial document and contains some of the same language. The 2009 version is the accepted Noise Guidelines used by the EPA, HUD, DOT, OSHA, and HHS. The 2009 edit was done at the request of the Department of Transportation (DOT) to include new data on Railway Noise.

The document shared suggests that Dr Autenrieth is expected to testify that "a generally accepted range for noise levels in a rural environment is 40 to 55db(A) Leq(24hrs)". The 2009 HUD Guidebook defines any DNL <60db(A) as "Clearly Acceptable" for all Residential, Farming, and Livestock Breeding (the Fillinghams do seem to be breeding dogs). Even a DNL <65db(A) is deemed "Normally Acceptable" for all Residential Areas. It also indicates that any DNL <75db(A) is "Clearly Acceptable" for Land Use areas that include Agriculture (except Livestock), Mining, Fishing (a designation that clearly covers rural areas and is the land use across the road from Intermountain Industrial).

The expected testimony also includes numerous references to annoyance. The 1974 Document, being cited by Dr. Autenrieth, also includes this sentence: "*From a legal standpoint, annoyance per se is not a legal concept. Annoyance expresses the human response or results, not it's cause. For this reason common law has never recognized annoyance as a compensable injury absent a showing of interference with a personal or property right*" In order to define the expected rates of "annoyance"

One of the reasons Dr. Autenrieth provided (in the documents shared) for adding the additional weighting, suggested that this was a "new" facility. The facility existed when the property was purchased by Intermountain Industrial Inc. It was in use as a Log home manufacturing facility. This would've required semi trucks, and forklifts. The numerous outside saws would create volumes and frequencies similar to the sandblaster. The operations would have also created the "Loud Impulse Sounds" like those created by the Shear Press. There are no sources that would not have had a comparable noise source under the previous owners.

For all of these reasons, and the HUD worksheets, I would be surprised if Dr. Autenrieth had the same opinion of the expected noise levels after a site visit. Given the history, the existing noise sources, and the land use of the surrounding area, I see no reason to expect Intermountain to have a DNL <75db(A) Leq(24). A level my estimates suggest is 4 times lower than normal operating conditions.

The evidence in this assessment suggests that the existing background noise level in the area around Intermountain Industrial Inc. has an approximate DNL of 56.2db(A) Leq(24hrs). Well below the EPA limit of <75db(A) Leq(24hrs). The HUD Worksheets indicates that in the summer months Roadway noise will exceed the sound created by Intermountain Industrial during normal operation. The evidence shared with me with regards to the complaint provide no reasons to question my assessments. My opinion of the results of these reviews are that they indicate: *Intermountain Industrial Inc. during normal operation does not create enough sound to be considered a noise nuisance to the surrounding area.*

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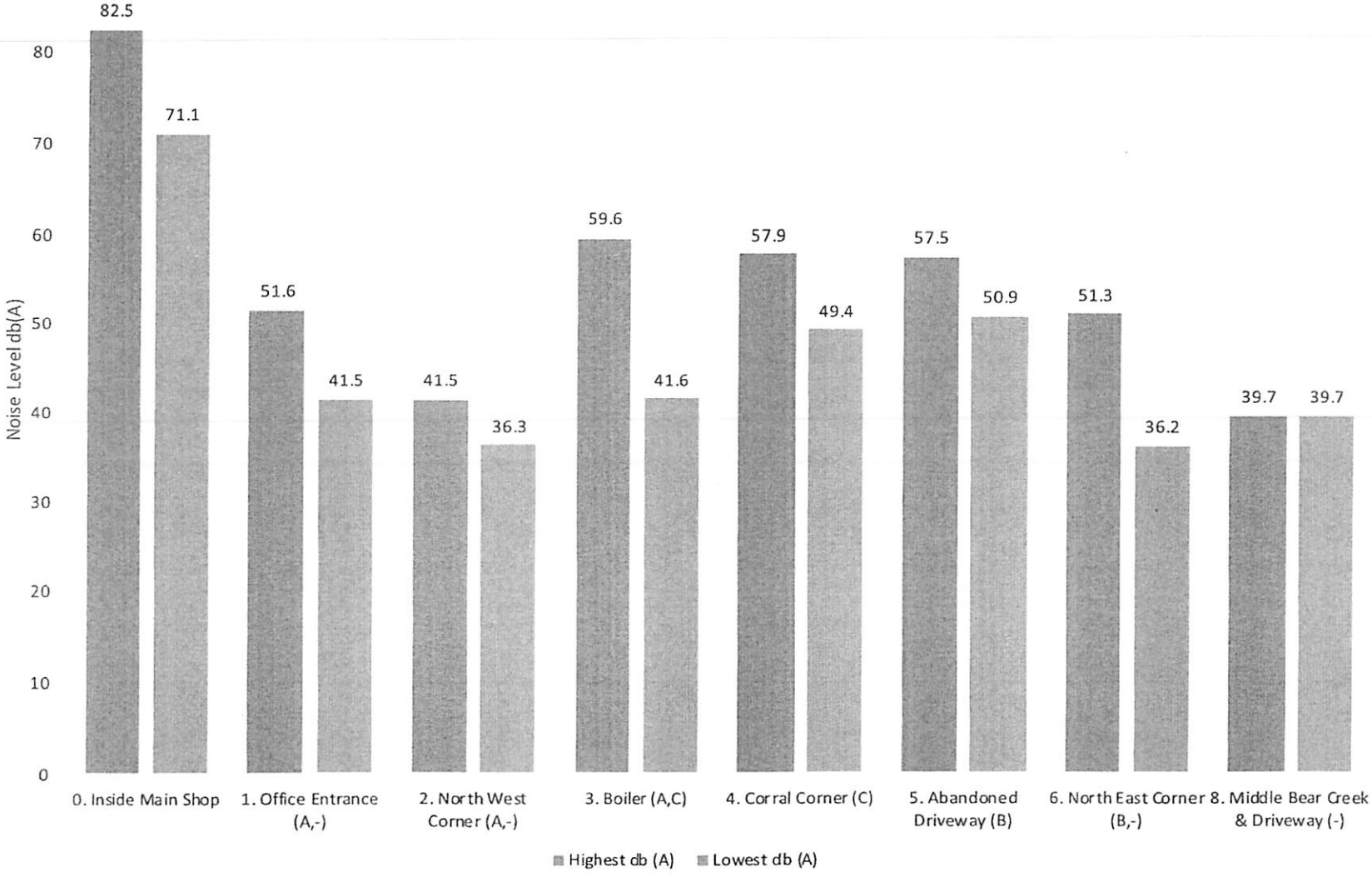
Intermountain Background

J.S.M. PRODUCTIONS TESTING



Adjustments for Automobile Traffic

	9 Stop and-go Table 3		10 Average Speed Table 4		11 Night-Time Table 5		12 Auto ADT (line 5c)		13 Adjusted Auto ADT		14 DNL (Workchart 1)		15 Barrier Attenuation		16 Partial DNL
Road No. 1	1	x	.3	x	.46	x	75	=	10.35		68	-	0	=	68
Road No. 2		x		x		x		=				-		=	
Road No. 3		x		x		x		=				-		=	
Road No. 4		x		x		x		=				-		=	

Adjustments for Heavy Truck Traffic

	17 Gradient Table 6		18 Average Speed Table 7		19 Truck ADT /2		20		21	22 Stop and-go Table 8		23 Night-Time Table 5		24 Adjusted Truck ADT		25 DNL (Work-chart 2)		26 Barrier Attn.		27 Partial DNL
Uphill	1.7	x	.81	x	15	=	20.65													
Road No. 1								Add	32.8	x	1	x	.43	=	14.4	74	-	0	=	74
Downhill			.81	x	15	=	12.15													
Uphill		x		x		=														
Road No. 2								Add		x		x		=			-		=	
Downhill				x		=														
Uphill		x		x		=														
Road No. 3								Add		x		x		=			-		=	
Downhill				x		=														
Uphill		x		x		=														
Road No. 4								Add		x		x		=			-		=	
Downhill				x		=														

Combined Automobile & Heavy Truck DNL

Road No. 1: 75 Road No. 2: Road No. 3: Road No. 4: Total DNL for All Roads: 75

Signature: Date:

Adjustments for Automobile Traffic

	9 Stop and-go Table 3		10 Average Speed Table 4		11 Night-Time Table 5		12 Auto ADT (line 5c)		13 Adjusted Auto ADT		14 DNL (Worksheet 1)		15 Barrier Attenuation		16 Partial DNL
Road No. 1	1	x	.3	x	.46	x	75	=	10.35		68	-	0	=	68
Road No. 2	1	x	.13	x	.46	x	150	=	8.97		47	-	0	=	46
Road No. 3		x		x		x		=				-		=	
Road No. 4		x		x		x		=				-		=	

Adjustments for Heavy Truck Traffic

	17 Gradient Table 6		18 Average Speed Table 7		19 Truck ADT / 2		20		21	22 Stop and-go Table 8		23 Night-Time Table 5		24 Adjusted Truck ADT		25 DNL (Work-chart 2)		26 Barrier Attn		27 Partial DNL
Uphill	1.7	x	.81	x	15	=	20.65														
Road No. 1									Add	32.8	x	1	x	.43	=	14.4	74	-	0	=	74
Downhill			.81	x	15	=	12.15														
Uphill		x		x		=															
Road No. 2									Add		x		x		=			-		=	
Downhill				x		=															
Uphill		x		x		=															
Road No. 3									Add		x		x		=			-		=	
Downhill				x		=															
Uphill		x		x		=															
Road No. 4									Add		x		x		=			-		=	
Downhill				x		=															

Combined Automobile & Heavy Truck DNL

Road No. 1 75 Road No. 2 46 Road No. 3 Road No. 4 Total DNL for All Roads 75

Signature Date

List all major roads within 1000 feet of the site

1 **Middle Bear Creek Rd**

2

3

4

Necessary Information	**Road 1**	**Road 2**	**Road 3**	**Road 4**
1 Distance in feet from the NAL to the edge of the road				
a nearest lane	680 ft			
b farthest lane	680 ft			
c average (effective distance)	680 ft			
2 Distance to stop sign				
3 Road gradient in percent	3%			
4 Average speed in mph				
a Automobiles	30			
b heavy trucks - uphill	25			
c heavy trucks - downhill	25			
5. 24 hour average number of automobiles and medium trucks in both directions (ADT)				
a. automobiles	25			
b medium trucks	5			
c effective ADT (a + (10xb))	75			
6 24 hour average number of heavy trucks				
a uphill	15			
b downhill	15			
c total	30			
7 Fraction of nighttime traffic (10 p.m. to 7 a.m.)				
8 Traffic projected for what year?	2017			

List all major roads within 1000 feet of the site

1 **Middle Bear Creek Rd**

2 **Red Crow Rd**

3

4

Necessary Information	Road 1	Road 2	Road 3	Road 4
1 Distance in feet from the NAL to the edge of the road				
a nearest lane	0 ft	600 ft		
b farthest lane	0 ft	1000 ft		
c average (effective distance)	0 ft	800 ft		
2 Distance to stop sign		600 ft		
3 Road gradient in percent	3%	0%		
4 Average speed in mph				
a Automobiles	30	20		
b heavy trucks - uphill	25	10		
c heavy trucks - downhill	25	10		
5 24 hour average number of automobiles and medium trucks in both directions (ADT)				
a automobiles	25	50		
b medium trucks	5	10		
c effective ADT (a + (10xb))	75	150		
6 24 hour average number of heavy trucks				
a uphill	15	0		
b downhill	15	0		
c total	30	0		
7 Fraction of nighttime traffic (10 p.m. to 7 a.m.)	10	10		
8 Traffic projected for what year?	2017	2017		

1937 Middle Bear Creek Rd
1
2
3
4
5
6
7