

ILLINOIS POLLUTION CONTROL BOARD
November 20, 1980

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.) PCB 77-286
)
BURLINGTON NORTHERN, INC., a)
Delaware Corporation,)
)
Respondent.)

THOMAS CHIOLA, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF
COMPLAINANT.

BARRY GUTTERMAN, BURLINGTON NORTHERN, INC., APPEARED ON BEHALF OF
RESPONDENT.

OPINION AND ORDER OF THE BOARD (by I. Goodman):

This matter is before the Board upon a complaint filed by the Illinois Environmental Protection Agency (Agency) against Burlington Northern, Inc. (Burlington) alleging violation of Rule 202 of the Board's noise regulations and Section 24 of the Illinois Environmental Protection Act (Act). Hearing was held in this matter; the Board has received no public comment.

At the September 10, 1980 hearing the parties herein filed a Stipulation and Proposal for Settlement (Stipulation) before the Board pursuant to Rule 331 of the Procedural Rules which recited the following factual situation. Burlington owns and operates a railroad yard known as the Congress Park Yard in the Village of Brookfield, Cook County, Illinois. There are no noise barriers provided between the Congress Park Yard and the residences located south of this yard. The Agency alleges that it would present evidence to show that noise emitted from mechanical refrigeration cars parked on Burlington's property exceeded the standards set by Rule 202 of the noise regulations on certain dates. Burlington offers no evidence in rebuttal but indicates that it would present evidence to show that it had reduced the number of mechanical refrigeration cars at the yard from an average of 19 per day in 1977 to a current average of two per day. Burlington also indicates that rerouting of mechanical refrigeration cars has further reduced the number of refrigeration cars moving through the Congress Park Yard.

The Agency further represents that it would present as witnesses twenty citizens who live immediately south of the property owned by the Burlington, who would testify that the noise from the mechanical refrigeration cars has interfered with their enjoyment of life and property. The parties agree that insofar as they are aware,

the sole environmental injury, or interference with the protection of the health, general welfare and physical property of the people, is limited to that recited in the Stipulation.

In the Stipulation Burlington agrees generally to schedule and handle a minimum number of cars at the Congress Park Yard and will handle those in such a manner as to minimize the impact of noise upon the residential area adjacent to the yard. In addition, Burlington agrees to pay the sum of \$5,000 to the State of Illinois.

The Board finds the Stipulation and Proposal for Settlement to be a reasonable resolution of the problem and agrees with the parties that the interests of the public will be best served by the resolution of this enforcement proceeding without further litigation under the terms proposed in the Stipulation. The Board shall, therefore, accept the Stipulation and Proposal for Settlement filed September 10, 1980, which Stipulation and Proposal for Settlement is incorporated by reference as if fully set forth herein.

This Opinion constitutes the findings of fact and conclusions of law of the Board in this matter.

ORDER

1. Burlington Northern, Inc. is found to have violated Rule 202 of Chapter 8: Noise Regulations and Section 24 of the Illinois Environmental Protection Act.


2. Burlington Northern, Inc. shall pay a penalty of \$5,000 for the violations found herein to the State of Illinois within 45 days of the date of this Order, such payment to be sent to Illinois Environmental Protection Agency, Fiscal Service Division, 2200 Churchill Road, Springfield, Illinois 62706.

3. Burlington Northern, Inc. shall execute the duties specified in Paragraphs 17, 18, and 19 of the Stipulation and Proposal for Settlement filed September 10, 1980, which Stipulation and Proposal for Settlement is hereby incorporated by reference as if fully set forth herein.

IT IS SO ORDERED.

Dr. Satchell abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 20th day of November, 1980 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board