

ILLINOIS POLLUTION CONTROL BOARD  
January 26, 1987

IN THE MATTER OF: )  
 )  
PUBLIC AIRPORT NOISE ) RES-87-1  
REGULATIONS, )  
35 ILL. ADM. CODE )  
PART 304 (Docket R77-4) )

CONCURRING STATEMENT (by J. Anderson):

While I agree with the resolution's aims, I believe there are two aspects of the Board's regulatory efforts that deserve further emphasis and explanation.

First, the "adjusted standards" component of the proposed regulations represent an approach fundamentally different from those on which the courts have been focused in prior cases and the pending Bryski case. The adjusted standards process allows the FAA to assert its primacy, but requires this assertion to be made in a structured justification setting.

That the FAA has veto power begs the questions as to when it should speak up. Under the adjusted standard procedure, the noise impacts are defined, and the airport proprietor's proposal is articulated. It should be noted that the proprietor's constraints flow not only from the FAA, but also from other jurisdictions, such as municipalities, which can effectively "veto" efforts of the proprietor to abate the noise problem. Under the proposal, these issues would be aired at hearing, as they should be, prior to Board deliberation. I see no reason why this process should conflict per se with the FAA's jurisdiction; indeed, it would accommodate it. And this Board, whose decisions are directly appealable to Appellate Court, is well accustomed to dealing with jurisdictional constraints and has made few missteps in this area.

Second, the discussion surrounding these regulations has been almost solely focused on airports such as O'Hare and Midway, where encroachment has already taken place. What gets "lost in the shuffle" is that these regulations also are for those numerous airports where the encroachment problem has not taken place or is just barely starting. The overall regulations are structured so as to stimulate preventive measures by all jurisdictions so that noise problems can be avoided in the first place.

For these reasons, I concur.

*Joan G. Anderson*  
Joan G. Anderson

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Concurring Statement was submitted on the 27<sup>th</sup> day of January, 1987.

*Dorothy M. Gunn*  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board