

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

90500

RECEIVED  
CLERK'S OFFICE

DEC 29 2009

STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD

SUSAN MALINOWSKI )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 CHICAGO TRANSIT AUTHORITY, )  
 )  
 Respondent. )

PCB 10-36

NOTICE OF FILING


TO: Susan Malinowski  
7244 W. Bryn Mawr  
Chicago IL 60631

YOU ARE HEREBY NOTIFIED THAT on December 29, 2009 the Respondent,  
CHICAGO TRANSIT AUTHORITY, filed with the Illinois Pollution Control Board:

- 1. APPEARANCE
- 2. ANSWER

copy(s) of said document is/are attached.

KENT S. RAY  
Acting General Counsel

By: p. proc   
Carla D. Davis  
One of its Attorneys

Chicago Transit Authority  
Law Department  
567 W. Lake Street, 6<sup>th</sup> Floor  
Chicago IL 60661  
312/681-2936

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 Respondent. )

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\*APPEARANCE

The undersigned, as attorney, enters the appearance of the defendant

CHICAGO TRANSIT AUTHORITY.  
.....

\*Defendant demands trial by jury.

KENT S. RAY, ACTING GENERAL COUNSEL

Name: CARLA D. DAVIS  
Attorney For: Respondent  
Address: 567 W. LAKE, 6<sup>TH</sup> Flr.  
City: Chicago, IL 60661  
Telephone: 312/681-2936  
Atty. No.: 90500

\*Strike demand for trial by jury if not applicable.

I certify that a copy of the within instrument was served on all parties who have appeared and have not heretofore been found by the Court to be in default for failure to plead.

*p. proc. Carla D. Davis*  
BY: Carla D. Davis  
Attorney for Respondent

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

STATE OF ILLINOIS )  
 ) SS  
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PCB 10-36

ANSWER

Now comes the Respondent, Chicago Transit Authority, a municipal corporation, by its Acting General Counsel, Kent S. Ray, and in answer to the Complaint, states as follows:

1. Your name, street address, county, state: Susan Malinowski, 7244 W Bryn Mawr, Chicago Ill 60631, Cook County, 773-763-8551.

**ANSWER:** The Respondent neither admits nor denies the allegations contained in paragraph 1 of the Complaint.

2. Place where you can be contacted during normal business hours (if different from above: Same as above.

**ANSWER:** The Respondent neither admits nor denies the allegations contained in paragraph 1 of the Complaint.

3. Name and address of respondent (alleged polluter): Chicago Transit Authority, 567 W Lake St, Chicago, Illinois 60661.

**ANSWER:** The Respondent admits that it is located at 567 W. Lake Street, Chicago, Illinois 60661.

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 above: Transportation (mass) at Harlem Avenue, Blue Line Station at the Kennedy Expressway (Harlem & Bryn Mawr).

**ANSWER:** The Respondent neither admits nor denies the allegations contained in paragraph 4 of the Complaint.

5. List specific sections of the Environmental Protection Act, Board regulations, Board order, or permit that you allege have been or are being violated: Title 35 Environmental Protection, Subtitle H: Noise, Chapter 1: Pollution Control Board, Part 901 – Section 901.02(a), 901.102(b), 901.104.

**ANSWER:** The Respondent denies that it has violated Title 35, Environmental Protection, Subtitle H: Noise, Chapter 1: Pollution Control Board, Part 901 – Section 901.102(a), 901.102 9b), 901.104. Respondent further states that Title 35 of the Illinois Administrative Code in its entirety, and all portions contained therein, speaks for itself and to the extent that the allegations contained in paragraph 5 of the Complaint vary from, modify, or in any way amends Title 35, the Respondent denies the same.

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 – constant train announcements & constant “rumbling” on the exterior & interior of my property. Blowing of train horns during day & night hours noise is continuous as trains run 24/7, approximately every 5 minutes (see attached train schedule) making approximately 240 stops/day. Announcements “(ding, dong)” doors closing, this is Harlem, next Jefferson Park are made with each stop. This noise permeates the inter & exterior of my home & ground noise permeates through basement

walls (family room) which can be heard over TV viewing each time train stops & can be heard (see attached noise level readings)

**ANSWER:** The Respondent denies the allegations contained in paragraph 6 of the Complaint.

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): This was first noticed when Blue Line “reconstruction” was completed. In Summer of 2008 the construction increased expansion of train station, increasing number of cars to eight per train, increase of train speed and loud chiming and announcements with each stop. This noise continues & occurs 24/7.

**ANSWER:** The Respondent neither admits nor denies the allegations contained in paragraph 7 of the Complaint.

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 has affected my quality of life, enjoyment of my home, has decreased property value & has affected health through sleep deprivation & enjoyment of leisure activities. Unable to keep doors/windows open for fresh air, deny me outside activities on my property & does not allow me enjoyment/rest in my basement family room where majority of leisure activities take place.

**ANSWER:** The Respondent neither admits nor denies the allegations contained in paragraph 8 of the Complaint.

9. Describe the relief that you seek from the Board (*e.g.*, an order that the respondent stop polluting, take pollution abatement measures, perform a cleanup, reimburse cleanup costs, changes 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)): Requesting CTA to provide noise abatement at the Harlem/Bryn Mawr Blue Line Station (north side) through the use of fence, walls to absorb noise & sound insulation for my home, especially basement living space.

**ANSWER:** The Respondent states that paragraph of the Complaint constitutes a prayer for relief, and therefore the Respondent is not required to answer.

10. Identify any identical or substantially similar case you know of that is already pending 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).

**ANSWER:** The Respondent states that paragraph 10 of the Complaint contains no allegations and therefore the Respondent is not required to answer.

WHEREFORE, the Respondent, Chicago Transit Authority, a municipal corporation, prays for judgment in its favor and its court costs.

Kent S. Ray  
Acting General Counsel

By: *p. proc. Juan B. Davis*  
Carla D. Davis

Chicago Transit Authority  
Law Department  
567 W. Lake Street, 6<sup>th</sup> Floor  
Chicago IL 60661  
312/681-2936  
Attorney No. 90500

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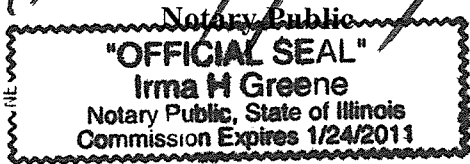
**CERTIFICATE OF SERVICE**

I, the undersigned, being first duly sworn on oath deposes and says that the original of the attached documents were filed before the Illinois Pollution Control Board on the 29 day of **DECEMBER, 2009** and that I served a copy of said documents upon parties stated above by **mailing** a true copy in a properly addressed, sealed, postage prepaid envelope and depositing same in a U.S. Mail Box at 567 W. Lake, 6<sup>th</sup> Floor, Chicago, Illinois on the 29 day of **DECEMBER, 2009**.

David R. Walsh

SUBSCRIBED AND SWORN before me  
this 29 day of DECEMBER, 2009.

Irma H. Greene



Chicago Transit Authority  
Law Department  
567 W. Lake, 6<sup>th</sup> Flr.  
Chicago, Illinois 60661  
312/ 681-2936