

ILLINOIS POLLUTION CONTROL BOARD  
April 28, 1977

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 76-238  
 )  
 FRANK'S CAR WASH, INC., )  
 an Illinois corporation, )  
 )  
 Respondent. )

Ms. Susan Shumway, Assistant Attorney General, appeared for the Complainant;  
Mr. Benjamin P. Alschuler, Attorney, appeared for the Respondent.

OPINION AND ORDER OF THE BOARD (by Mr. Zeitlin):

This matter is before the Board on a formal Complaint filed by the Environmental Protection Agency (Agency) on September 23, 1976, alleging that a car wash facility owned and operated by Respondent Frank's Car Wash, Inc., (Frank's) located in Aurora, Kane County, had been operated in violation of Rule 202 of Chapter 8: Noise Pollution, of this Board's Rules and Regulations, on the dates set forth below.

A hearing was held in the matter on March 18, 1977, in Geneva, Illinois. At that hearing the parties entered a Stipulation and Proposal for Settlement (Stipulation), which forms the basis for this Opinion and Order. No other testimony or evidence was entered at that hearing, although Respondent's attorney did note for the record that a violation of the Noise Pollution Regulations is admitted, which Respondent has agreed in the Stipulation to abate.

The parties stipulate that Frank's car wash facility is located on "Class B" land, as defined in the Noise Pollution Regulations, and that the facility is thereby bound by the noise limitations in Rule 202 of those Regulations. They also agree that the principal source of noise at the facility is certain drying equipment, which includes blower units driven by two 40 horsepower, 3545 rpm electric motors, with various compressor fans, air nozzles, etc. which channel the air flow. The area surrounding the car wash has both residential and commercial uses. Noise measurements taken on nearby "Class A" land showed violations of the Rule 202 standards for noise emissions from Class B land to Class A land at the 63, 125, 250, 500, 1000, 2000, 4000, and 8000 Hz octave band center frequencies on April 1, May 8, September 23, October 14, December 2, December 3, and December 10, 1975.

The Stipulation and accompanying exhibits indicate that Frank's was aware of its noise problem early in 1975. In a voluntary effort to achieve compliance, Frank's installed a sound-attenuation kit designed and manufactured for it by the manufacturer of the drying equipment described above. Installed by November 15, 1975, at a cost of \$3100, the sound-attenuation kit failed to achieve compliance.

In a continuing effort to achieve compliance, Frank's attempted to obtain permission from adjacent property owners to enter onto their property for the construction of a wall and roof designed to achieve compliance. Frank's was unable to obtain such permission.

The parties now stipulate that it is both technically practicable and economically reasonable for Frank's to construct such a wall, (see, Ex. R to Stip.), without intruding on the adjacent property. The parties agree that this construction should achieve compliance with Rule 202.

The Stipulation in this matter contains considerable information in mitigation of the admitted violation; there is also aggravation, (Stip. ¶14). On balance, that information along with the material set forth above indicates that the \$200 penalty stipulated to by the parties for the admitted violations is adequate.

The other factors in the proposed settlement are similarly accepted. In addition to constructing the wall described above, (construction to commence no later than May 1, 1977), Frank's has agreed that if compliance is not achieved, Frank's will construct a roof over the proper areas in a further attempt to achieve compliance at an additional cost of \$3000. If compliance has still not been reached, Frank's will apply to the Board for a variance.

We shall accept the Stipulation inasmuch as Frank's is attempting in good faith to achieve compliance with Rule 202 in a reasonably expeditious manner.

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

#### ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD that:

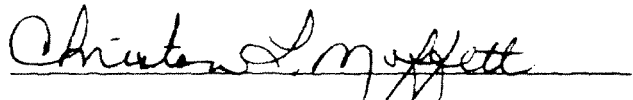
1. Respondent Frank's Car Wash, Inc., is found to have operated its car wash facility in Aurora, Illinois, on the dates set forth in the accompanying Opinion, in violation of Rule 202 of Chapter 8: Noise Pollution, of this Board's Rules and Regulations.

2. Respondent shall pay as a penalty for such violations the sum of Two Hundred Dollars (\$200.00), payment to be made within thirty (30) days of the date of this Order to:

Environmental Protection Agency  
Fiscal Services Division  
2200 Churchill Road  
Springfield, Illinois 62706

3. Frank's shall implement a compliance plan as set forth in the Stipulation and Proposal for Settlement submitted by the parties to this matter, as detailed in paragraphs 19 through 23 thereof.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 28<sup>th</sup> day of April, 1977, by a vote of 5-0.



Christan L. Moffett, Clerk  
Illinois Pollution Control Board