

ILLINOIS POLLUTION CONTROL BOARD
October 28, 1976

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 75-267
)
)
 TERMINAL RAILROAD ASSOCIATION OF)
 ST. LOUIS, a Missouri corporation,)
)
 Respondent.)

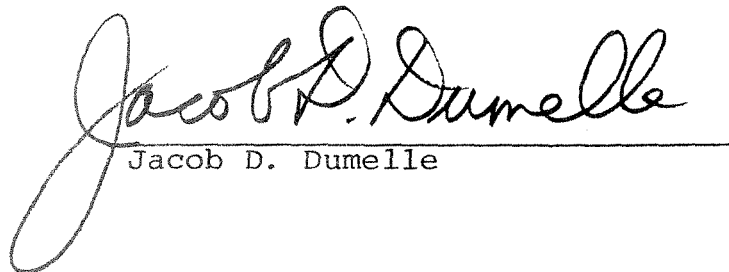
CONCURRING STATEMENT (by Mr. Dumelle):

I would not have entered an Interim Order and Opinion in this cause but would have made a final order and opinion.

The noise reductions are 20 to 25 dB which are very substantial attenuations. If in fact a violation still exists then the Respondent is liable to further prosecution.

The difficulty seems to lie in the Board's accepting the stipulation which states that "proven technology does not exist". This is a legal conclusion which is only for the Board to render in a proceeding. Just as we do not accept other types of stipulations which infringe upon the Board's prerogatives so, too, could we have done so in this case.

A simple disclaimer of this portion of the stipulation would have been sufficient.



Jacob D. Dumelle

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Concurring Statement was submitted on the 12th day of November, 1976.



Christan L. Moffett, Clerk
Illinois Pollution Control Board