

ILLINOIS POLLUTION CONTROL BOARD
January 7, 1982

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	PCB 81-97
)	
CEZAR'S INN, INC.,)	
an Illinois corporation,)	
)	
Respondent.)	

GERHARDT BRAECKEL, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

ELMORE, GOWEN & DeMICHAEL, P.C., ATTORNEYS AT LAW (MR. ELBERT F. ELMORE, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by N.E.Werner):

This matter comes before the Board on the June 10, 1981 Complaint brought by the Illinois Environmental Protection Agency ("Agency").

Count I of the Complaint alleged that, on numerous occasions between July 2, 1979 and June 10, 1981, the Respondent allowed the parking of trucks on its property to cause noise pollution in violation of Rule 102 of Chapter 8: Noise Regulations ("Chapter 8") and Section 24 of the Illinois Environmental Protection Act ("Act").

Count II alleged that, from July 2, 1979 until June 10, 1981 (including, but not limited to, March 27, 1980, September 5, 1980, and March 5, 1981), the Respondent allowed the emission of sound during daytime hours from a property-line-noise-source on its property (Class A) to receiving Class A land which exceeded the allowable octave band sound pressure levels in violation of Rules 102 and 202 of Chapter 8 and Section 24 of the Act.

A hearing was held on October 20, 1981 at which a partially signed Statement of Stipulated Settlement (i.e., signed only by counsel for the Respondent), which was substantially identical to the subsequently filed Stipulation, was incorporated into the hearing record. (R. 2-3; R. 14-16). Two members of the public testified at this hearing. The parties filed a properly signed Statement of Stipulated Settlement on October 30, 1981.

The Respondent, Cezar's Inn, Inc. ("Cezar"), owns and operates a motel which is located at 5001 West 79th Street in the City of Burbank,

Cook County, Illinois. On March 27, 1980, September 5, 1980, and March 5, 1981, Agency employees conducted sound tests which indicated that noise levels violated allowable standards and could disturb persons utilizing adjacent residential property. (Stip. 2-3).

Noises have been produced by the operation and parking of trucks, tractors and trailers (including the starting and warming-up of engines, the running of refrigeration units, etc.) on the southeast side of the Respondent's parking lot. (Stip. 3). Customers of the motel, as well as non-customers and local residents, have utilized Cezar's parking lot and frequently disturbed the sleep, relaxation, and enjoyment of life of the people in the two homes closest to the southeast side of the parking lot. (Stip. 3). Although the Respondent "instituted a policy of prohibiting unattended running of engines and running of refrigeration units while parked in the winter of 1979 and posted signs to that effect", these measures were not totally effective in eliminating all noise problems. (Stip. 4).

At the hearing, Mr. Daniel Higgins and Mrs. Kathy Higgins testified pertaining to the disturbing noises from tractors, trailers, and trucks which parked along the side of their house in the Respondent's parking lot. (R. 4-16). Mr. Higgins indicated that now, since the trucks will be parking in a different area of the lot (away from the Higgins' house), the "underlying problem has been alleviated". (R. 4). Mrs. Kathy Higgins expressed concern that sometimes the trucks may fail to park in the newly designated areas and worried that, when the snows came, the truck drivers might not see the markings. (R. 8-9). However, in regard to the Stipulation itself, Mrs. Higgins testified that "I agree with everything if it's going to stay the way it is". (R. 8).

To alleviate any future noise problems, the proposed settlement agreement provides that the Respondent shall: (1) direct all trucks, tractors and trailers to face north and to park only in the spaces designated for truck parking ("an appropriate symbol such as a 'T' will be painted on the surface of the parking lot to identify the designated space"); (2) use "all reasonable means" to prevent "the running of truck or tractor engines while unattended or refrigeration units (reefers) on its property"; (3) post, near the present signs, an equal number of signs which shall read: "Trucks or Trailers Parked in This Area Will Be Towed At Owner's Expense. Park Only in Designated Area."; (4) post an appropriate sign at the motel's reception desk to notify truckers who are motel guests regarding the parking lot rules and about the designated spaces; (5) inform truckers (who are not motel guests) about the parking lot rules and designated spaces, "or prohibit their parking on the property"; (6) take all necessary measures "to assure that the parking lot rules are complied with" (including, but not limited to, instructing all desk clerks to inform the truck drivers of the rules; informing all motel employees of these rules; "periodic checking of the parking lot to make sure the parking rules are followed" and "enforcement of the parking lot rules when informed of violations"). (Stip. 5-6).

In evaluating this enforcement action and proposed settlement agreement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act. The Board finds the settlement agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act.

Accordingly, the Board finds that the Respondent, Cezar's Inn, Inc., has violated Rules 102 and 202 of Chapter 8: Noise Regulations and Section 24 of the Illinois Environmental Protection Act. The Respondent will be ordered to follow the compliance program set forth in the settlement agreement and no penalty will be imposed in this case.

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

ORDER

It is the Order of the Illinois Pollution Control Board that:

1. The Respondent, Cezar's Inn, Inc., has violated Rules 102 and 202 of Chapter 8: Noise Regulations and Section 24 of the Illinois Environmental Protection Act.
2. No monetary penalty shall be assessed against the Respondent.
3. The Respondent shall comply with all the terms and conditions of the Statement of Stipulated Settlement filed on October 30, 1981, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 7th day of January, 1982 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board