

Decision No. 78958**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation  
 on the Commission's own motion into  
 the adoption of a General Order  
 prohibiting pollution of railroad  
 right-of-ways by railroad corporations.

Case No. 9051

ORDER DISCONTINUING CASE NO. 9051

It appearing that Case No. 9051 was instituted to determine whether a General Order should be adopted requiring railroad corporations to prevent the discharge of human waste on railroad right-of-ways, and

It further appearing that the U.S. Public Health Service Interstate Regulations 42 CFR Part 72 accomplishes the result for which Case No. 9051 was instituted, and good cause appearing,

IT IS ORDERED that Case No. 9051 is hereby discontinued.

IT IS FURTHER ORDERED that the Secretary shall cause a copy of this order to be served forthwith upon each railroad corporation subject to the jurisdiction of this Commission.

Dated at San Francisco, California, this 27th day  
 of JULY, 1971.

Commissioner J. P. Vukacin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

Chairman  
*William L. Sturgeon*  
*Arthur*  
*Yvonne L. Sturgeon*

Commissioners

# Memorandum

THE COMMISSION

Date : July 7, 1971

Subject: Case No. 9051  
Investigation on Commission's own  
motion into the adoption of a  
General Order prohibiting pollution  
of railroad right-of-ways by rail-  
road corporations.

From : Public Utilities Commission—San Francisco

Elmer J. Sjostrom *E.J.S.*  
Senior Counsel

ISSUE: Whether revised rules of U.S. Public Health Service re discharge of wastes from railroad conveyances make it advisable to discontinue Case No. 9051.

FACTS: Case No. 9051 was instituted on April 14, 1970. On August 19, 1970, a proposed general order was mailed to all interested parties and requested their comments by September 30, 1970. Subsequently, the deadline for filing such comments was extended to October 30, 1970, January 30, 1971, June 1, 1971, and September 1, 1971, because of the unsettled state of related efforts on the federal level. On June 1, 1971, the U.S. Public Health Service Interstate Quarantine Regulations, 42 CFR Part 72, were amended by revising subsection 72.154 to prohibit discharge of human wastes from railroad conveyances except at servicing areas approved by the Commissioner of Food and Drugs. The revised regulations became effective July 7, 1971.

DISCUSSION: Basically the revised regulations accomplish the goal for which Case No. 9051 was instituted by requiring retention of human waste on trains to prevent the pollution of the environment and any attendant diseases.

CONCLUSION AND RECOMMENDATION: It appears that the federal regulation preempts the field of regulation involved in Case No. 9051. It is therefore recommended that Case No. 9051 be discontinued. A suggested form of order is attached.

EJS/CD  
Attachment