

Decision No. 79851

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's Own Motion into the operations, practices and plant of the Atchison, Topeka & Santa Fe Railway Company, a corporation, for the purpose of determining what, if any, changes should be made in such operations, practices and plant in the district between the Irvine Industrial Complex and the Railway's El Toro Siding in Orange County and the Irvine Company, a corporation, Irvine Industrial Complex, a corporation, and County of Orange.

Case No. 9219

(Filed May 4, 1971)

Thomas I. McKnew, Jr., Attorney at Law, for The Atchison, Topeka & Santa Fe Railway Company; Gordon B. Jones, for The Irvine Company, respondents.  
Harry E. Gill, for City of Tustin;  
Russell L. Janson, for Orange County Planning Commission; John Bockelman and James D. White, Attorney at Law, for Fredericks Development Corporation; Richard W. Silver, for Far West Management Corporation and "The Aspens Apartments"; Louise Patterson Campbell, in propria persona, and for Tustin Meadows Home Owners Association, interested parties.  
G. R. Dougherty, Attorney at Law, and Claude Carlock, for the Commission's staff.

O P I N I O N

In early 1970 residents of a new subdivision known as Tustin Meadows, located in Tustin, California, complained to the Commission concerning the noisy operation of The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) in the vicinity of their homes. In response to these complaints the Commission investigated and, as a result of that investigation, instituted this case to determine if any changes in the operation of the Santa Fe were required. Public hearings were held at Santa Ana, California, on October 27, 28, and 29, 1971, before Examiner Robert Barnett. A diagram of the area is set forth as Appendix A to this opinion.

The portion of track in question runs through the Irvine Ranch, owned by the Irvine Company. The Santa Fe originally purchased its right of way easement in 1887, and has operated its main line tracks through this area continuously since that time. In 1914 the railroad constructed the Irvine siding, off the main line, and has used the siding as a necessary adjunct to its operations since that date. Around 1940 the railroad constructed the Como siding, about 1.6 miles east of the Irvine siding. Until recent years the land in the general vicinity of these two sidings was devoted to essentially agricultural purposes or was vacant. Within the period of the last decade the Irvine Company decided to develop the land adjacent to and north of the Irvine siding into a residential subdivision of homes now known as Tustin Meadows. Before and concurrent with its general residential development, the Irvine Company developed an industrial complex southwest of Tustin Meadows so that now virtually the whole area to the southwest of Tustin Meadows, extending westerly to the Newport Freeway, is, or will be in the future,

devoted to essentially industrial uses, many of which require rail service. Contiguous to the Irvine Company's industrial complex the Santa Fe owns property which it, too, is developing for industrial use. In addition to the industrial complex, there are, to the northeast of Tustin Meadows, two fruit packing houses. These houses are connected to the main track by the Irvine spur, just east of the Irvine siding.

Tustin Meadows is a subdivision containing 936 single-family dwellings with a population of about 3,400. On its southern end it borders on the Irvine siding and the Santa Fe main line, and on its eastern end it borders on the Irvine spur. The development is surrounded by a six-foot-high block wall. The main track of the Santa Fe is about 100 feet south of the wall; the Irvine spur is somewhat closer to the east wall.

Approximately 40 residents attended the first day of hearing; and a petition with over 100 signatures was filed protesting the operation of the Santa Fe. Residents from Tustin Meadows testified that they object to the noise created by the switching of cars, particularly that which occurs late at night or early in the morning. The noise awakens both children and adults intermittently throughout the night. The noise consists of locomotives slamming into cars, the noise associated with braking and releasing of brakes on trains, the noise associated with the slack movement of trains, and in general, the usual noises associated with railroad movements. In addition, they testified that the Santa Fe frequently parks refrigerator cars on the Irvine siding and leaves the refrigerator motors running night and day. Not only is this noisy, but the sight of freight cars parked on the siding is an eyesore and an attractive nuisance to children.

Prior to the hearing, in response to complaints, the Santa Fe decided not to use the Irvine siding for switching movements or storage of freight cars; it transferred those operations to the Como siding for set off, and to the Case-Swayne run-a-round, which is located approximately one-half mile west of the Irvine siding, for pickup. It costs Santa Fe up to \$110 a day to change its operation from the Irvine siding to the Como siding because now two stops are made instead of one and the switch engines travel the additional distance to Como. Several residents acknowledged the improvement in the over-all noise problem as a result of these efforts.

The staff recommends that Santa Fe build two additional tracks west of the Newport Freeway and south of the Santa Fe main line over to Ritchey Street, approximately six-tenths of a mile. This area is master planned, and zoned, industrial. Then it should remove the Como siding and the westerly portion of the Irvine siding from the Irvine spur to Red Hill Avenue. These changes should minimize blocking the Red Hill Avenue crossing; give better service to the industrial complex by being closer to it; eliminate the stop at Como and save up to \$110 a day; and eliminate much of the noise problem to the residents of Tustin Meadows and future residents in the Como siding area.

Witnesses for the Santa Fe explained its operations near Tustin Meadows as follows: When the complaints started, the Santa Fe was assembling a large portion of its eastbound freight cars in the Irvine siding for pickup by the San Diego to San Bernardino freight train, which operates about 3 a.m. in this area. Prior to pickup the train would set off cars destined for the Irvine-Santa Ana area. After receiving complaints of noise, the Santa Fe changed its operations so that freight cars destined for the Irvine-Santa Ana area are set off on the Como siding, and freight cars to be picked up

are assembled in the Case-Swayne run-a-round. In the pickup operation, the engineer usually pulls a portion of his train over Red Hill Avenue, makes a cut to allow the automobile traffic to pass while work is being done, picks up the waiting cars, recouples the train, and proceeds to San Bernardino. At times there is a second San Diego to San Bernardino freight operating at about midnight.

After freight cars are set off at the Como siding, a switcher from Santa Ana picks up the cars and brings them back to the Case-Swayne run-a-round where they are switched for their respective destinations. In order to get from Santa Ana to the Como siding, the switcher must operate past the Tustin Meadows subdivision. However, the switcher makes only one run in each direction a day. Depending upon the number of cars set out at the Como siding, it takes the switcher approximately ten minutes from the time he gets to the siding, picks up the cars, and pulls out of the siding.

A Santa Fe witness said that if the staff recommendation is adopted, all movements of the San Diego train in setting out and picking up cars would necessitate blocking Ritchey Street for a period of time. Trains composed of more than seven or eight cars would also block McFadden Avenue; and fifteen-car trains would block Lyons Street. As far as switching cars in the industrial complex, utilization of the staff proposal will not obviate the need to block Red Hill Avenue on occasion. To get cars in and out of the complex it is necessary to move them easterly of the Case-Swayne switch and then push the cars back into the complex, or push the cars back down the siding for eventual pickup.

A Santa Fe witness said that much of the switching in the Case-Swayne run-a-round is done in the evening because most of Santa Fe's customers like to have their cars undisturbed during the daytime and have requested that they be switched at night. The Santa Fe considers itself duty bound to have those freight cars spotted for next-morning loading or unloading. On a typical evening, it is necessary for the switch engine to cross Red Hill Avenue four times. On the fourth time, the engine would cross the street, line up the switch, and return to the yards in Santa Ana. If the staff proposal was adopted the switch engine, with cars, would still have to operate in the Case-Swayne area, going across Red Hill Avenue in order to spot the freight cars on the tracks in the industrial complex. During the time of crossing Red Hill Avenue, the switch train would go approximately 300 feet down the track in the Tustin Meadows area.

The witness stated that approximately 75 percent of the switching movements into the industrial complex are performed between the hours of 2 p.m. and 10 p.m. In his opinion, it would not be feasible to restrict all switching operations to those hours. Some operations would have to be performed after 10 p.m. If switching was restricted to the hours prior to 10 p.m., it would cause a day's loss for some inbound freight and outbound freight. This would be harmful both to Santa Fe shippers and Santa Fe as Santa Fe competes with truck haulers for business.

Trains moving from San Bernardino to San Diego do not stop at the Case-Swayne run-a-round, the Irvine siding, or the Como siding. They set out their cars at Santa Ana, where switchers pick up the cars and take them to the Case-Swayne run-a-round and spot them in the industrial complex. This switching movement is included in the four movements of switching trains over Red Hill Avenue set forth above.

In regard to the packing houses, a Santa Fe witness testified that during the packing season Santa Fe runs a switcher up to the packing houses each evening between 8 p.m. and midnight, but at no definite time. Evening hours are chosen because car loading is not finished until late afternoon. The cars are then spotted for pickup by the San Diego to San Bernardino train to make a connection the following morning to the east.

An industrial representative with the Santa Fe testified that there will be a substantial increase in rail service to the industrial complex within the next few years because there are a number of industries that have either just completed building or are in the planning stage, and there has been additional acreage opened up for industrial use within the complex. In May 1967, he discussed the location of the industrial complex with high officials of the Irvine Company and pointed out the problems of having a switching operation near planned residential development. He was told that the master plan had already been set and that no changes would be made because of the problem of switching.

He said that the city of Tustin has been considering requiring a buffer strip to be established along the railroad track at least 100 feet, and at points up to 500 feet, from the railroad right of way. However, as of this date no ordinance has been passed. The Orange County Planning Commission's position is that industrial switching operations should occur within industrial areas.

Another Santa Fe witness stated that to implement the recommendations of the staff would cost \$122,000 plus approximately \$5,000 for land. The land price represents book value to the Santa Fe Land Improvement Company, a subsidiary of Santa Fe. The fair market value of the land is approximately \$30,000. Santa Fe admits that the staff solution is the most reasonable proposed for long-term relief and has offered to pay a substantial part of the amount necessary to relocate the sidings, but it wants a substantial contribution from the Irvine Company before undertaking the relocation.

The director of engineering-planning for the Irvine Company testified that the master plan for the Irvine Ranch included industrial acreage adequate to cover industrial needs through the year 2020. At the time that Santa Fe approached Irvine in 1967 and suggested industrial land use for Tustin Meadows the Irvine Company examined its market projections for industrial land use, and found them to be inadequate to justify an additional industrial area. Therefore, Irvine did not accept the suggestion. He said that the commercial land uses which might have been used to buffer the railroad were also used to buffer other nuisances such as airports and freeways. He concluded that it is impractical to avoid abutting residential development to the railroad in all cases. He said that the position of the Irvine Company coincides with that of the staff as to moving the switching operations to new sidings near Ritchey Street because such operations are not appropriate within a residential area; but the Irvine Company will not contribute money toward the solution.



A staff transportation operations supervisor observed operations at the Case-Swayne run-a-round on one evening when the San Diego to San Bernardino freight picked up cars. During that time, a switcher was working for about 15 minutes. The whole operation took about 15 minutes. There are often two such operations an evening at this location.

The witness also observed new homes being constructed in the area of the Como siding toward the railroad right of way. The witness considered the apartment houses near McFadden Avenue and Ritchey Street but felt that there would be less noise and less blocking of major streets if a new siding was constructed at Ritchey Street. The apartments would be further from the new tracks than Tustin Meadows is from the present siding.

Owners of the apartment houses in the McFadden, Lyons, and Ritchey Street areas opposed the staff proposal on the ground that it would merely be shifting the nuisance from one group of residents to another. There are about 1,300 families living in these apartments.

The Santa Fe presented an engineer who testified that he measured the sound levels at certain points within the area in question. He used a sound level meter and an impact noise analyzer. The sound level meter is basically a microphone, an electrical amplifier, and a meter that can be read visually. The impact noise analyzer is a unit that can be attached to the sound level meter which permits very brief impact-type noises to be observed; noises that are so short that they wouldn't ordinarily be capable of being read on the sound level meter. On October 22, 1971, between 9 p.m. and 10 p.m., he made sound measurements approximately 100 feet from the center line of the main line track at the Como siding. The highest reading he obtained was of a passenger train whose noise

showed as 90 decibels on the "A" scale. Of his other measurements at the Como siding, the highest was 68 dB(A), which occurred when a switching engine started to apply power and move. When he took his measurement at the Como siding, he noted that the switch engine operated approximately 25 minutes.

On October 23, 1971, he took measurements at the Case-Swayne run-a-round between the hours of 7 p.m. and 10 p.m. He measured a 100-car freight train pulled by four engines and found that when the engines passed immediately opposite him, he measured 76 dB(A). After the engines had passed and while the cars were still moving directly in front of him, he measured from 64 to 66 dB(A). The loudest noises measured during this particular time appeared to be connected with braking and stopping the train, and subsequently releasing the brakes and starting the train. Those braking operations had a high point of 84 dB(A). He made these measurements 100 feet north of the north edge of the main line tracks. During this period, his measurements reached 84 dB(A) approximately a half dozen times, with each occurrence lasting about a second or two.

On October 25, 1971, he took measurements from the San Diego Freeway. From a distance of approximately 100 feet, he measured the range of both automobile and diesel truck traffic. The automobile traffic was all within the range of 66 to 70 dB(A) and the diesel truck traffic approximately 78 dB(A).

He also measured the distance between the main line track to the block wall adjacent to the Tustin Meadows subdivision and found it to be 113 feet. The houses themselves were approximately 20 feet more distant from the wall. The wall is about six feet tall.

In the witness' opinion, such a wall would lower the decibel reading by about three to four dB(A). If the wall were 12 feet high, the level of reduction would be about 10 to 12 decibels. The witness measured the ambient level of sound at the Como siding as 40 dB(A). He testified that the ambient level of sound in a bedroom at Tustin Meadows at 2 a.m. would be 30 dB(A). Conversation takes place at a level of between 60 to 65 dB(A).

Discussion

"Noise is ubiquitous in the environment and has many adverse effects on man. It causes hearing loss, interrupts sleep, interferes with speech and generally degrades the quality of life." So reads the first finding in the Report to the 1971 Legislature on the Subject of Noise prepared by the Human Relations Agency of the California Department of Public Health. Much of the material related to noise that is set forth in this discussion is derived from that report.

The Report defines noise as follows: "Noise, simply, is unwanted sound. This definition adequately describes the problem and avoids disputes which often arise from more detailed definitions. For example, it makes no reference to the quality or intensity of sound, only its desirability which is what noise is all about. Rock band music is not noise to those who want to listen to it, while a soft lullaby may well be noise to those who do not happen to want to hear it."

Noise has a number of harmful effects including induced hearing loss, interference with sleep, interference with communication, and induced physiological stress such as changes in heart rate, respiration rate, etc. In this case we are not concerned with the effect of noise upon hearing loss or physiological stress. Noise disturbs sleep not only in ways of which the subject is aware, but also in ways of which he is unaware. Noise which is not sufficient to arouse a person may impair the quality of sleep by shifting him from a deep stage of sleep to a shallower stage, or deprive him of that portion of sleep which is connected with dreaming and which is thought to be the most important for rest. The Report's study on sleep disturbance shows that noise disturbs the sleep of people in a gradually increasing way and that 20 percent or more persons suffer some form of sleep disturbance if noise exceeds 45 dB(A). At 65 dB(A), 50 percent of those asleep are awakened.

Normal conversation in a family residence takes place at about 60 dB(A). On this basis, frequently occurring interfering noise in excess of 56 dB(A) inside residences is unacceptable from a communications standpoint. Also, an interfering noise in excess of 75 dB(A) is unacceptable in any situation when normal conversation is desired.

Sound intensity is measured by the decibel (dB), one dB being the threshold sound discernible by the average young adult with good hearing. The decibel is a logarithmic, not a linear, unit; in order to produce a sound of 100 dB, the required energy level is 10 billion times that producing the threshold sound of one dB. Thus, reduction of a loud sound by merely a few decibels can have a substantial quieting effect and, conversely, an increase in sound levels by only a few decibels will mean a disproportionate increase in their impact. The gentle rustle of leaves in a light breeze is about 18 dB. In the average home, the noise level is somewhere around 40 to 45 dB, ordinary speech is about 60 to 65 dB, and the threshold of painful noise is about 120 dB. Each increase of 10 dB doubles the apparent loudness of sound. Sound intensity varies proportionately to the distance between the source and the receiver. Each doubling of the distance produces a 6 dB reduction in sound intensity. Two sources of sound of equal intensity originating from the same point produce an intensity 3 dB greater than the single sound.

The Report states that most people want different noise levels for different locations.

<u>Location</u>	<u>Noise Level</u>	
	<u>Day</u>	<u>dB(A) Night</u>
Suburban Residential	40	30
Urban Residential	45	35
Commercial	55	45
Industrial	60	50

The Report states that people are willing to accept without undue complaint, noise levels of approximately 10 dB(A) above that which they want. Once the noise level increases to 15 dB(A) above the acceptable level, the community usually responds with threats of action and when the noise level reaches 20 dB(A) above the acceptable level, you usually find vigorous community action.

The experiences of the residents of Tustin Meadows confirm the findings of the Report. Tustin Meadows is a suburban residential community which would expect, at night, a noise level in the bedroom of 30 dB(A). The braking operations of the switch engines create a noise level of 84 dB(A) at 100 feet from the point of the noise. Between the point of measurement and the nearest homes exists a six-foot block wall which would reduce the dB(A) by about 3. An exterior noise of 70 dB(A) can usually be reduced to 45 dB(A), internally, by shutting the windows facing the source. Therefore, exterior noises in excess of 70 dB(A) will stimulate many complaints by raising the internal noise above 45 dB(A). (See Highway Research Report, Can Noise Radiation from Highways Be Reduced By Design?, State of California Division of Highways No. M&R 636316.1.)

We conclude that each time an engine opposite Tustin Meadows puts on its brake, 20 percent of the persons asleep in the row of houses nearest the tracks will suffer some form of sleep disturbance if they are sleeping with their windows closed; if their windows are open, 50 percent of them will be awakened. Clearly, this noise made at night is much more annoying and harmful than a similar noise made in the daytime. This phenomenon also explains why the complaints from the residents dropped substantially when the switching movements were changed from the Irvine siding to the

Como siding. However, there still is a problem at the Red Hill Avenue crossing where switch engines must run opposite Tustin Meadows in order to spot cars in and out of the industrial complex, and a problem on the Case-Swayne run-a-round, where the noise is close to persons living in the southwest portion of Tustin Meadows. Also, the problem will remain on the Irvine spur when packing house activities resume. And the problem will again reach a high point in complaints when the area between Tustin Meadows and Como has been fully developed with residences.

It appears that Santa Fe's attempts to improve the situation are only a temporary palliative. It has removed most of the complaints from Tustin Meadows at present, but similar complaints will grow as the Como area is developed. The railroad's solution has done nothing for complaints arising because of switching activities over Red Hill Avenue and to the packing houses on the Irvine spur. The only way to reduce those complaints is to prohibit the use of switch engines during the hours of 10 p.m. and 7 a.m. The railroad argues that this solution will inconvenience shippers and may delay some shipping and delivery by one day. However, we must consider the rights of the public, as distinct from merely the railroad and its shippers. Shippers may be inconvenienced if they have to accept delivery or ship their goods between the hours of 7 a.m. and 10 p.m., but that is the shipper's choice; the residents of Tustin Meadows must sleep between the hours of 10 p.m. and 7 a.m.

That which is a business problem to shippers in this case is a health problem to the public. Public Utilities Code Section 768 provides, in part: "The commission may, after a hearing, . . . require every public utility to construct, maintain, and operate its line, plant, system, equipment, apparatus, tracks, and premises in such manner as to promote and safeguard the health and safety of its employees, passengers, customers, and the public, and may . . . require the performance of any other act which the health or safety of its employees, passengers, customers, or the public may demand. . . ." (Emphasis added.) Section 763 states in part: "Whenever the commission, after a hearing, finds that any railroad corporation . . . does not run its trains or cars . . . at a reasonable or proper time having regard to safety, or does not stop its trains or cars at proper places, or does not run any train or car upon a reasonable time schedule for the run, the commission may make an order directing such corporation . . . to change the time for starting its trains or cars or to change the time schedule for the run of any train or car, or to change the stopping place or places thereof. . . ."<sup>1/</sup>

---

<sup>1/</sup> The Santa Fe moved to dismiss on the ground the Commission has no jurisdiction over the subject matter. The motion is denied. (Cavanaugh v Southern Pacific Company, Decision No. 71493 dated November 1, 1966 in Case No. 8407.)



In our opinion, the solution of the staff to construct a new siding near Ritchey Street is the optimum solution. Placing a siding in the Ritchey Street area will not create a noise problem that would affect the apartment houses on McFadden Avenue to any substantial degree. Most of those apartment houses are well over 500 feet away from where the proposed siding will be. Further, the proposed siding will be in the center of a commercial area with buildings and trees surrounding it; also, sound attenuation devices, if needed, can be placed around the tracks in that commercial area without becoming offensive to the eye. However, we will not order it at this time because the Santa Fe has abated the noise in a substantial degree and because we do not feel that Santa Fe should be burdened with the complete cost of moving the siding. The evidence in this case shows that the Irvine Company, knowing that there was going to be a problem of noise at the Irvine and Como sidings, failed to provide for a buffer zone for the railroad and sold homes within 100 feet of the railroad tracks. The Irvine Company recognizes the problem, but will not contribute money to its solution; the City of Tustin and the County of Orange also recognize the problem, but as of this date have not decided to contribute anything to the solution. It may be that in the future the complaints from residents may persuade the Commission to order the sidings moved and order the Santa Fe to assume all costs of such move, but we would prefer to give the parties time to work out a more equitable solution. Perhaps some form of sound attenuation device will be satisfactory. Or perhaps, the shippers might decide that if it is truly convenient for them to have deliveries in the late evening, they will contribute to the abatement of the noise pollution that they are creating and not expect the residents to bear it stoically.

This case illustrates the balancing of interests often found in environmental cases. Changes in population and business practices may require residents to tolerate more noise than they would like in order that work may be done on a reasonable basis; yet those same changes may also require business to modify its conduct so that residents may enjoy an improved quality of life.

Our order will prohibit the use of switch engines and the switching of freight cars between the hours of 10 p.m. and 7 a.m. on the Case-Swayne run-a-round, the Irvine siding, the Irvine spur, and the Como siding. It will also prohibit the storage of freight cars on the Irvine siding or the Irvine spur, and prohibit the setting out or picking up of freight cars on the Irvine siding.

The order does not prohibit any through freight train, especially the San Diego to San Bernardino freight train, from setting out cars or picking up cars at any time, except that no freight cars will be set out or picked up on the Irvine siding.

This result will not solve the noise problem entirely as the through freights will still operate at night. But it will reduce the problem to the extent that switching is not done during the late evening.

In the past, we have handled comparable problems in the same way. In Decision No. 57741 dated December 16, 1958 in Application No. 26271 we ordered the Southern Pacific Company not to operate across Bayshore Highway in San Mateo County between the hours of 11 p.m. and 9 a.m. on the ground that such operation disturbed the sleep of residents. In Decision No. 71682 we refused to modify Decision No. 57741, after finding that "the needs of the industries at this time are not of such magnitude as to require the residents of the area to be subjected to the noise caused by the spotting of railroad cars other than during the hours presently prescribed for switching operations."

Findings of Fact

1. The Santa Fe has operated its main line tracks through the Irvine Ranch, owned by the Irvine Company, since 1887. In 1914 the railroad constructed the Irvine siding, off the main line, and has used the siding as a necessary adjunct to its operations since that date. Around 1940 the railroad constructed the Como siding, about 1.6 miles east of the Irvine siding. Southwest of Tustin Meadows is an industrial complex that includes land owned by the Irvine Company and land owned by the Santa Fe. There are, to the northeast of Tustin Meadows, two fruit packing houses. These houses are connected to the main track by the Irvine spur just east of the Irvine siding.

2. Tustin Meadows is a subdivision containing 936 single-family dwellings with a population of about 3,400. On its southern end it borders on the Irvine siding and the Santa Fe main line, and on its eastern end it borders on the Irvine spur. The development is surrounded by a six-foot-high block wall. The main track of the Santa Fe is about 100 feet south of the wall; the Irvine spur is somewhat closer to the east wall.

3. Residents of Tustin Meadows are subjected to noise created by the switching of freight cars, particularly that which occurs late at night or early in the morning. The noise awakens both children and adults intermittently throughout the night. The noise consists of locomotives slamming into cars, the noise associated with braking and releasing of brakes on trains, the noise associated with the slack movement of trains, and in general, the usual noises associated with railroad movements. In addition, the Santa Fe has in the past parked refrigerator cars on the Irvine siding and left the refrigerator motors running night and day. Not only was this noisy, but the sight of freight cars parked on the siding may create an eyesore and possibly an attractive nuisance to children.

4. Much of the switching in the Case-Swayne run-a-round is done in the evening because most of Santa Fe's customers like to have their cars undisturbed during the daytime and have requested that they be switched at night.

5. In May 1967 representatives of Santa Fe discussed the construction of the industrial complex with high officials of the Irvine Company and pointed out the problems of having a switching operation near planned residential development. Representatives of the Irvine Company said that the master plan had already been set and that no changes would be made because of the problem of switching.

6. Each time there is an application of the brake on a switch engine opposite Tustin Meadows, 20 percent of the persons asleep in the row of houses nearest the tracks will suffer some form of sleep disturbance if they are sleeping with their windows closed; if their windows are opened, 50 percent of them will be awakened.

7. In order to reduce inconvenience and permit the residents of Tustin Meadows to get a good night's sleep it is necessary to prohibit the use of switching engines and the movement of freight cars between the hours of 10 p.m. and 7 a.m. on the Case-Swayne run-a-round, the Irvine siding, the Irvine spur, and the Como siding. It is also necessary to prohibit the storage of freight cars on the Irvine siding and the Irvine spur, and prohibit the setting out or picking up of freight cars on the Irvine siding.

The Commission concludes that the following order should issue.

O R D E R

IT IS ORDERED that:

1. The Atchison, Topeka and Santa Fe Railway Company shall not use switch engines or switch freight cars between the hours of 10 p.m. and 7 a.m. on the Case-Swayne run-a-round, the Irvine siding, the Irvine spur, and the Como siding. This order does not prohibit any through freight trains, especially the San Diego to San Bernardino freight train, from setting out cars or picking up cars at any time, except that no freight cars shall be set out or picked up at the Irvine siding.

2. Freight cars shall not be stored on the Irvine siding, or on the Irvine spur opposite Tustin Meadows.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 27<sup>th</sup>  
day of MARCH, 1972.

William Synovis Chairman  
James L. Stenger  
Commissioners

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

A.T. & S.F. RY.  
IRVINE INDUSTRIAL COMPLEX  
AND SURROUNDING AREA

OCTOBER 4, 1971

