

ILLINOIS POLLUTION CONTROL BOARD
August 20, 1993

THE GRIGOLEIT COMPANY, an)
Illinois Corporation,)
)
Petitioner,)
)
v.) PCB 90-135
) (Trade Secret)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

IN THE MATTER OF:)
)
TRADE SECRET CLAIM BY) PCB 92-110
THE GRIGOLEIT COMPANY, an) (Trade Secret)
Illinois Corporation.)

ORDER OF THE BOARD (by J. Anderson):

On August 16, 1993, The Grigoleit Company (Grigoleit) filed a Joint Status Report and a Joint Motion to Remand to the Illinois Environmental Protection Agency (Agency) PCB 92-110 and PCB 90-135. Grigoleit asserts that the Agency has authorized Grigoleit to file both the status report and the motion as joint filings. Both of these cases involve Board determinations on the trade secret status of Grigoleit's Material Safety Data Sheets (MSDSs). In each case, Grigoleit filed a motion for reconsideration. The Board notes that it, as requested, has reserved ruling on Grigoleit's motions for reconsideration in order to allow time for settlement negotiations.¹

Joint status report. Grigoleit and the Agency assert that settlement negotiations have been successful in: The Grigoleit Company v. Illinois Environmental Protection Agency, (June 4, 1992) PCB 90-135 (Trade Secret); and In the Matter of Trade Secret Claim by the Grigoleit Company, (July 30, 1992) PCB 92-110 (Trade Secret). They request that the Board grant the joint motion to remand.

¹ The motions for reconsideration in each case were filed on September 3, 1992. In eight orders issued between October 29, 1992 and July 22, 1993 in each case, the Board reserved ruling on the motion for reconsideration after reviewing the Board-ordered status reports.

Joint motion to remand. In support of their joint motion, Grigoleit and the Agency assert:

As settlement of these cases which derived from the same nucleus of facts, the Agency has agreed to accord the subject Material Safety Data Sheets ("MSDS") trade secret status. In order to do so, the Board must remand these cases to the Agency in order for the Agency to appropriately designate the MSDSs as trade secrets. (Joint Motion at 2.)

The Board notes that the MSDSs were physically transferred from the record in PCB 90-135 to that in PCB 92-110; they have continued to have confidential status pending final adjudication. (See PCB 91-110 Board order of July 30, 1992 at 1.) The Board also notes that at no time while the MSDSs were in the Board's possession have they been entered into the records of any other Board proceeding.

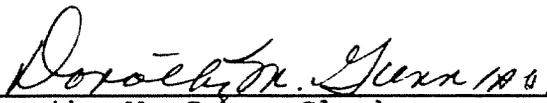
The Board grants the joint motion to remand PCB 92-110 and 90-135 to the Agency; accordingly, the Clerk is instructed to forward the MSDSs to the Agency. The Board construes the joint motion to remand as superseding, and thus constituting a withdrawal by Grigoleit of, its motions for reconsideration. Grigoleit's motions for reconsideration are hereby deemed withdrawn.

The dockets in these cases are accordingly closed.

Section 41 of the Environmental Protection Act, (415 ILCS 5/41 (1992)), provides for appeal of final orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motion for Reconsideration.)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 20th day of August, 1993, by a vote of 5-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board