

ILLINOIS POLLUTION CONTROL BOARD
April 25, 1991

CWM CHEMICAL SERVICES, INC.,)
)
Petitioner,)
)
v.) PCB 89-177
) (Permit Appeal)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by B. Forcade):

On March 21, 1991, the Illinois Environmental Protection Agency ("Agency") filed the Administrative Record of this RCRA Part "B" Permit Denial Appeal. On March 22, 1991, the Agency filed a correction to that record. Together, these documents stated that certain portions of the record have been subject to a recent trade secret confidentiality determination by the Agency. Those documents include all of Book E, and selected portions of "Book A, Volumes V & VI" and "Book D". By Order of March 28, 1991, the Board requested comment by the parties on whether the Board needs additional information (such as claim letters and/or expurgated versions of the documents) in order to maintain the material in Book A, D, and E, confidential during the appeal period, consistent with regulatory public access requirements.

On April 19, 1991, both the Agency and CWM Chemical Services, Inc. (hereinafter "CWM"), filed a reply. CWM states, "... confidential protections for materials in Books A & D of the Administrative Record filed by the Agency need not be maintained. Trade Secret protection for Book E should be maintained; the supporting claim letters attached hereto may be made a part of the Board file." (Response p. 1). Both CWM and the Agency state that no additional expurgated version of Book E is necessary.

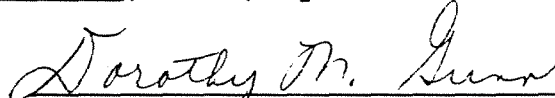
Based on the foregoing, the Board will maintain Book E in the Clerk's confidential files until further Board Order. Books A & D as well as the claim letter filed by CWM, will be placed in the public files.

On another matter, the Board notes that on March 22, 1991, the Attorney General filed a motion to set a hearing date. A response was filed by CWM on April 17, 1991. In his Order and Memorandum of Prehearing Conference filed April 12, 1991, the Hearing Officer indicates that he has been in contact with the attorneys in this proceeding, and that he intends to handle this matter. At this time, the Hearing Officer is in the best position to rule on the motion. The Board therefore refers the motion to set hearing and the response to the Hearing Officer.

IT IS SO ORDERED.

J. Theodore Meyer abstained.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 25th day of April, 1991, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board