

ILLINOIS POLLUTION CONTROL BOARD
May 10, 1990

THE GRIGOLEIT COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 89-184
)	(Permit Appeal)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

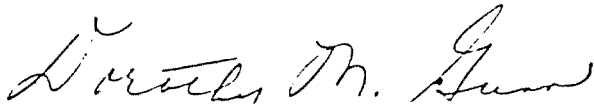
ORDER OF THE BOARD (by J. Marlin):

By Order of March 22, 1990, the Board denied Grigoleit's motion for summary judgment. That motion was premised on the argument that the 90 day decision period for Agency permit action, as required by Section 39 of the Act, begins on the day an application is mailed to the Agency, rather than on the day an application is received by the Agency. On April 12, 1990 Grigoleit filed a motion for reconsideration or, in the alternative, for leave to file an interlocutory appeal. The Agency filed a response in opposition on April 25, 1990.

Grigoleit's alternative motions are hereby denied. In its March 22 Order, the Board cited its decision in Interstate Pollution Control Inc. v. IEPA, PCB 86-19, March 27, 1986, which adopted a limited "mailbox rule". That rule provides that initial pleadings pursuant to Sections 38, 39, 40, 40.1 and 41 of the Act are deemed timely filed when mailed, but that decision deadlines should be calculated from the time of receipt. As the Agency notes in its response to Grigoleit's motions, the Illinois Supreme Court did not disturb that interpretation in its review of M.I.G. Investments, Inc. v. IEPA, 122 Ill. 2d 392, 523 N.E. 2d 1 (1988). The Board accordingly sees no reason for reconsideration or certification of the issue for interlocutory appeal.

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 10th day of May, 1990, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board