

ILLINOIS POLLUTION CONTROL BOARD
May 11, 1989

LIGMA CORPORATION,)
)
 Petitioner,)
)
 v.) PCB 88-131
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by R. C. Flemal):

This matter comes before the Board upon the April 25, 1989 filing by Ligma Corporation ("Ligma") of a Motion to File an Amended Petition for Variance. The Motion is granted and the Amended Petition is accepted.

Ligma contends that an increase in projected emissions requires it to modify its proposed methods for attaining compliance and to amend the relief sought in its original petition. Ligma further contends that Respondent, the Illinois Environmental Protection Agency ("Agency"), has no objection to filing of the Amended Petition.

Inasmuch as Ligma has filed an open waiver of the decision date in this proceeding, acceptance of the Amended Petition does not affect the decision schedule. However, it should be noted that the Agency's Recommendation on the original petition has been filed and that a hearing has already been held. As regards the former, the Board notes that it cannot take final action without receipt of an amended Agency recommendation (c.f., City of Chicago v. IEPA, PCB 82-139, 53 PCB 71). As regards the latter, the Board requests the Agency's perspective on the desirability of an additional hearing to address the Amended Petition.

As a final matter, the Board notes several concerns based on review of the record as it currently stands. Among these are whether the parties consider either methylethyl ketone ("MEK") or tetrahydrofuran ("THF") to be organic material; whether MEK and THF should be aggregated with toluene in making the determination to characterize Bostic F as photochemically reactive material ("PRM") pursuant to the definition of PRM at 35 Ill. Adm. Code 211.122; whether data on the component percentages of the Bostic F formulation should be presented as volume percents rather than weight percents (c.f., the definition of PRM), and whether such distinction is material to any aspect of the variance request;

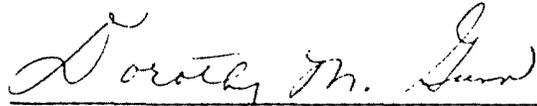
and whether variance from 35 Ill. Adm. Code 215.304 is necessary to accomplish the relief sought by Ligma.

In addition, the Board notes that together with the Amended Petition, Ligma filed a document entitled "Ligma Corporation's Exhibit 1", upon which is printed the sentence "This document contains confidential & proprietary information not to be released without written permission from Ligma Corporation". The Board is unable to determine from the face of the exhibit as to whether these documents are 1) claimed to be trade secrets pursuant to 35 Ill. Adm. Code Part 120, and if so, whether any trade secret determination has been made, or 2) to be "confidential" on some other basis, and if so, what this basis is.

The Board orders that the parties address these issues in appropriate filings no later than June 9, 1989.

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 11th day of May, 1989, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board