

ILLINOIS POLLUTION CONTROL BOARD  
March 8, 1990

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

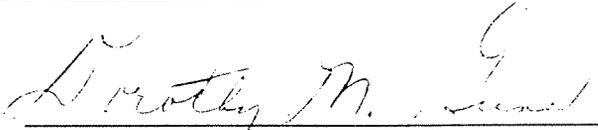
ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on several motions filed by both petitioner Grigoleit Company (Grigoleit) and respondent Illinois Environmental Protection Agency (Agency). It appears that the only motions which are ripe for decision at this time are Grigoleit's March 2, 1990 motion to dismiss the Agency's motion to reverse the hearing officer's order and the Agency's motion for leave to file its interlocutory appeal instanter. Grigoleit's request that the Board "strike and dismiss" the Agency motion is based upon Grigoleit's contention that the Agency "refused" to comply with the Board's procedural rules by failing to file a written motion to appeal the hearing officer's order. See 35 Ill. Adm. Code 101.247. Grigoleit asks that the Board strike the Agency's motion and impose sanctions. In response, the Agency states that its noncompliance with the rule requiring a written motion to file its motion to reverse was inadvertent, and that it has now filed a motion for leave to file its interlocutory appeal instanter.

Grigoleit's motion to dismiss the Agency's motion is denied. Although the Agency did initially fail to comply with Section 101.247, the Board finds that the Agency has now complied with that rule, and that neither Grigoleit nor the Board has suffered any prejudice by the Agency's delayed compliance with the requirement. Because the Board finds that the Agency's failure to immediately comply with the rule was inadvertent and nonprejudicial, Grigoleit's request for sanctions is also denied. The Agency's motion for leave to file its interlocutory appeal instanter is granted. The Board will address the merits of the remaining motions at a later date, after all response times have run.

IT IS SO ORDERED.

I, Dorothy M. Gunn, hereby certify that the above Order was adopted on the 8<sup>th</sup> day of March, 1990, by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board