

ILLINOIS POLLUTION CONTROL BOARD
June 4, 1992

AMOCO CHEMICAL COMPANY, AMOCO)	
PETROLEUM ADDITIVES COMPANY)	
WOOD RIVER, ILLINOIS,)	
)	
Petitioner,)	
)	
v.)	PCB 92-78
)	(Variance)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by B. Forcade):

On May 26, 1992, Amoco Chemical Company/Amoco Petroleum Additives Company ("Amoco") filed a petition for an air variance for its facility located at Wood River in Madison County, Illinois. This matter is accepted for hearing.

On pages "C" and "D" of the filing, Amoco has identified certain confidential information. That information is excised from the public copies of the petition and a justification for non-disclosure, pursuant to 35 Ill. Adm. Code 101.161(b), is provided. The Board encourages the Petitioner to seek conditional protection for the documents submitted. Under this procedure the Petitioner must specifically waive a final decision on the protection status of the material. The Board will protect the document until a final decision in the proceeding is rendered and then return the protected material to the Petitioner. The process is described at 35 Ill. Adm. Code 101.161(c) "...The Board may enter conditional non-disclosure orders allowing withdrawal by the applicant of the material covered by such order, at which time the Board's ruling on the application shall be based on the record excluding the material so withdrawn." Absent this waiver, the filing of a justification obligates the Board to expeditiously adjudicate the protection status of the claimed material.

For additional information, the parties may wish to consult the following cases: Monsanto Company v. IEPA, PCB 88-194 (December 15, 1988); Monsanto Company v. IEPA, PCB 88-206 (January 5, 1989); Marathon Petroleum Company v. IEPA, PCB 88-179 (January 19, 1989); Citizens Utilities v. IEPA, PCB 88-151 (June 22, 1989, July 13, 1989); Highland Supply Corp. v. IEPA, PCB 89-118 (July 27, 1989, August 31, 1989, September 28, 1989); The Grigoleit Company v. IEPA, PCB 89-184 (November 15, 1989, November 29, 1990); The Olin Corporation (Joliet Plant) v. IEPA, PCB 89-72 (November 8, 1990, November 29, 1990); Allied-Signal

Inc. v. IEPA, PCB 88-172 (December 20, 1990, January 10, 1991); Quantum Chemical Corporation, USI Division v. IEPA, PCB 91-6 (January 18, 1991); In the Matter of: The Petition of Keystone Steel and Wire Company, AS 91-1 (February 28, 1991); CWM Chemical Services Inc. v. IEPA, PCB 89-177 (March 28, 1991); Sexton Environmental Services v. IEPA, PCB 91-4 (March 28, 1991, April 11, 1991); and In the Matter of: Petition of Peoria Disposal Company for Adjusted Standard from 35 Ill. Adm Code 721 SubPart D, AS 91-3 (April 25, 1991). See Also, RES 84-1, In the Matter of: Designation of Personnel Authorized to have Access to "Trade Secret" Material in Accordance with 35 Ill. Adm. Code 120, (June 8, 1984; and RES 86-2, In the Matter of: Designation of Personnel Authorized to have Access to "Trade Secret" Material in Accordance with 35 Ill. Adm. Code 120, (February 6, 1986).

Hearing must be scheduled within 14 days of the date of this order and completed within 60 days of the date of this order. The hearing officer shall inform the Clerk of the Board of the time and location of the hearing at least 40 days in advance of hearing so that public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list and all actual exhibits to the Board within 5 days of the hearing. Any briefing schedule shall provide for final filings as expeditiously as possible and in no event later than 70 days from the date of this order.

If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date in conformance with the schedule above. This schedule will only provide the Board a very short time period to deliberate and reach a decision before the due date. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible.

Within 10 days of accepting this case, the hearing officer shall enter a Hearing Officer Scheduling order governing completion of the record. That order shall set a date certain for each aspect of the case including: briefing schedule, hearing date(s), completion of discovery (if necessary) and pre-hearing conference (if necessary). The hearing officer Scheduling order may be modified by entry of a complete new scheduling order conforming with the time requirements below.

The hearing officer may extend this schedule only on a waiver of the decision deadline by the petitioner and only for the equivalent or fewer number of days that the decision deadline is waived. Such waivers must be provided in writing to the Clerk of the Board. Any waiver must be an "open waiver" or a waiver of decision until a date certain. Any waiver shall extend the time deadline of Section 104.180 regarding filing the Agency

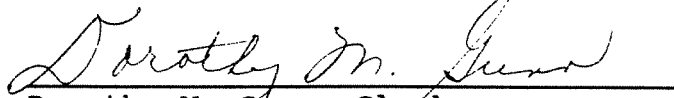
recommendation by the equivalent number of days, but in any circumstance the recommendation must be filed at least 20 days before the hearing.

Because of requirements regarding the publication of notice of hearing, no scheduled hearing may be cancelled unless the petitioner provides an open waiver or a waiver to a date at least 120 days beyond the date of the motion to cancel hearing. This should allow ample time for the Board to republish notice of hearing and receive transcripts from the hearing before the due date. Any order by the hearing officer granting cancellation of hearing shall include a complete new scheduling order with a new hearing date at least 40 days in the future and at least 30 days prior to the new due date and the Clerk of the Board shall be promptly informed of the new schedule.

Because this proceeding is the type for which the Illinois Environmental Protection Act sets a very short statutory deadline for making a decision, absent a waiver, the Board will grant extensions or modifications only in unusual circumstances. Any such motion must set forth an alternative schedule for notice, hearing, and final submissions, as well as the deadline for decision, including response time to such a motion. However, no such motion shall negate the obligation of the hearing officer to establish a Scheduling order pursuant to the requirements of this order, and to adhere to that order until modified.

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 4th day of June, 1992, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board