

ILLINOIS POLLUTION CONTROL BOARD
October 10, 1991

WILLIAMSON ADHESIVES, INC.,)
)
 Petitioner,)
)
 v.)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
 Respondent.)

PCB 91-112
(UST Fund Reimbursement)

ORDER OF THE BOARD (M. Nardulli):

This matter comes before the Board on the September 18, 1991 Motion for Reconsideration filed by Williamson Adhesives, Inc. The Agency filed its response on September 27, 1991.

Williamson Adhesives seeks Board reconsideration of our August 22, 1991 decision in which we denied reimbursement under Section 22.18b of the Act, Ill. Rev. Stat. 1989 ch. 111½, par. 1022.18b, for the costs of corrective action. We determined that toluene was not "petroleum" and was a "hazardous substance," so reimbursement was not possible. We determined that hexane, although "petroleum," was also a Section 3.14 "hazardous substance," so reimbursement was not possible. The Board granted summary judgment in favor of an Agency motion.

The upshot of Williamson Adhesives' argument is that the Board erred in determining that Section 22.18b reimbursement was not possible for corrective action for hexane because hexane is a hazardous substance. Williamson Adhesives argues that genuine issues of material fact remain. It asserts that although hexane was listed by Congress in Section 112(a) of the Clean Air Act, 42 U.S.C. § 7412(a), as a hazardous air pollutant, USEPA did not similarly list it at 40 CFR 61.01 pursuant to Section 112(b) of that statute. To further persuade the Board, Williamson Adhesives avers that the Agency has specifically listed hexane as a material for which reimbursement may be possible.

The Agency basically rests on the arguments it raised by way of its motion for summary judgment. The Agency generally supports the Board's August 22, 1991 Order.

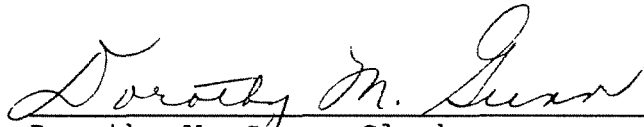
The Board is not persuaded to do anything more than give effect to the plain language used by the General Assembly in Section 22.18b. "Hazardous substance" is defined by Section 3.14. That provision does not stipulate listing by Congress at Section 112(a) or by USEPA pursuant to Section 112(b). Williamson Adhesives presents nothing that was not earlier before the Board and considered in rendering summary judgment in the August 22, 1991 Order.

For the foregoing reasons, the Board hereby denies reconsideration.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1989 ch. 111½, par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above Order was adopted on the 10th day of October, 1991, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board