

ILLINOIS POLLUTION CONTROL BOARD
June 5, 1985

MONSANTO COMPANY,)
)
 Petitioner,)
)
 v.) PCB 85-19
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by J. D. Dumelle):

This matter comes before the Board upon motions to strike and for partial decision filed May 17, 1985, on behalf of Monsanto Company and a response filed May 28, 1985, on behalf of the Illinois Environmental Protection Agency (Agency). Monsanto moves to strike Exhibit 22 from the administrative record and for the Board to rule against the Agency as to the trade secret status of Exhibits 16, 21 and 22 as a matter of law. The Agency opposes the motion for partial decision.

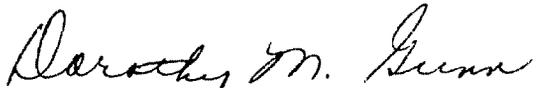
The Board agrees with the Agency that the Agency has not admitted "sufficient facts to show, as a matter of law, that the wastes indicated in Exhibits 16, 21 and 22 were not subject to disclosure (Agency Memorandum, May 28, 1985, p. 1)." The language of Section 7(d) of the Illinois Environmental Protection Act, which is argued as controlling this matter, demands a close factual scrutiny of the record. Based on the present record before the Board, the Board cannot determine that the facts are sufficiently clear to make a decision as a matter of law as requested. The motion for partial decision is, therefore, denied.

The Board notes that it has no information on whether the substances described in the exhibits are "being placed or to be placed in landfills or hazardous waste treatment storage or disposal facilities" under any other permit or circumstances. If so, the Board wishes to know whether the information claimed here as confidential is contained in other files not claimed as confidential.

Similarly, the Board finds that there are insufficient facts to demonstrate that Exhibit 22 should be stricken and affirms the May 10, 1985, Hearing Officer Order denying that motion.

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 5th day of June, 1985, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board