

ILLINOIS POLLUTION CONTROL BOARD  
December 20, 1984

TECUMSEH MANAGEMENT CO. )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 84-170  
 )  
 ILLINOIS ENVIRONMENTAL PROTECTION )  
 AGENCY AND AMAX COAL COMPANY, INC. )  
 )  
 Respondent. )

INTERIM ORDER

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

On December 7, 1984 the Board received an Application For Non-Disclosure from the Illinois Environmental Protection Agency (Agency). The Application relates to what is described as a Pro Forma Balance Sheet which was submitted to the Agency by Tecumseh Management Co. in relation to a permit proceeding and was designated confidential in the Agency's files. The Agency requests that the document involved be held for non-disclosure in this proceeding and be stamped "Not Subject to Disclosure."

Section 7 of the Environmental Protection Act (Act) (Ill. Rev. Stat. 1983, ch. 111½, par. 1007) and Section 101.107 of the Board's Rules and Regulations (35 Ill. Adm. Code 101.107) state the general policy that all files shall be open to reasonable public inspection and also provide certain exceptions to that general policy, including an exception for "confidential data." Section 101.107(c) (1)-(3) of the Board's Rules prescribes the procedure by which material will be judged by the Board to fall within one of the specified exceptions. To enable the Board to make an informed decision in a timely fashion, Section 101.107(c)(3) requires that the Application include, among other things, "information as will apprise the Board of . . . the reasons why non-disclosure is necessary, the number and title of all persons familiar with such information, and how long the material has been limited for disclosure." The Application in this proceeding does not contain this information. The reasons given as supporting this Application are only that the document was "submitted to the Agency in confidence for [sic] purpose of evaluating Petitioner's financial conditions," was "designated confidential in the Agency's files," and was "returned as confidential." This does not provide the Board with adequate information to make an informed decision.

To remedy the defects in the Application, the Agency and the Petitioner are allowed until Monday, January 7, 1985 to submit supporting material meeting the requirements of Section 101.107(c)(3). The Board will defer ruling on the Application until the January 10, 1985 Board meeting. If no additional supporting material is filed, the document in question will be treated as disclosable after January 10, 1985.

The Board hereby enters a temporary "conditional non-disclosure order" with regard to the document in question pursuant to Section 101.107(c)(3). The Clerk of the Board shall insure that the document is not subject to disclosure through January 10, 1985 or, if additional supporting material has been filed but the Board is unable to enter a final order on that date, until such time as the Board enters a final order on this application.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Interim Order was adopted on the 30<sup>th</sup> day of December, 1984 by a vote of 5-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board