ILLINOIS POLLUTION CONTROL BOARD
March 5, 1987

IN THE MATTER OF:	)	
	)	
DUO FAST CORPORATION	)	PCB 87-4
TRADE SECRET CLAIM	)	
DETERMINATION	)	

OPINION AND ORDER OF THE BOARD (by B. Forcade):

This matter comes before the Board on a December 12, 1986, Confidential Trade Secret Claim and Record Submittal filed by the Duo Fast Corporation ("Duo Fast") in the R82-14, RACT III, regulatory proceeding. By Order of January 8, 1987, the Board, pursuant to 35 Ill. Adm. Code 120.215, triggered a justification of the trade secret claim and separately docketed this matter from the general regulatory proceeding in which this issue arose. Duo Fast, on January 23, 1987, requested an extension of time to submit its statement of justification ("Justification") which was granted by Board Order on January 26, 1987. Duo Fast filed its Justification on February 5, 1987. On February 19, 1987, the Board, pursuant to 35 Ill. Adm. Code 120.225 entered an Order extending its decision period by an additional ten working days or until March 6, 1987.

Duo Fast submits two documents to be included in the regulatory record in R82-14, each of which it is claimed contain or constitute confidential trade secrets protectable under the Environmental Protection Act, Ill. Rev. Stat., ch. 111½, par. 1001 et seq., ("Act") and Board regulations. The first document, entitled Areas of Activity Relating to VOC Emission Reduction" ("R & D Summary"), is a description of recent efforts by Duo Fast to comply with the existing 35 Ill. Adm. Code 215.204, the amendment of which is the subject of the R82-14 proceeding. This information was requested by the Board and the Illinois Environmental Protection Agency ("Agency") at hearing in R82-14. Duo Fast asserts that the entire document contains confidential trade secret information such that it is not reasonably practical to separate the trade secret portions from the remainder. Duo Fast requests protection for the entire document.

The second document, entitled "Duo Fast Corporation Control Equipment Evaluation" ("Y & A Report"), is a report by the consulting firm of Yates & Auberle concerning the costs and engineering considerations, associated with utilizing add-on control equipment to further control volatile organic materials ("VOM") emission at Duo Fast's facility. Duo Fast only claims discreet portions of this document as confidential trade secret material. An expurgated copy of this document, with all claimed

information deleted, was filed in accordance with the Board's regulations.

The Act and Board regulations provide the standards and procedures for filing and adjudicating claims of confidentiality. Section 7 of the Act provides four exceptions to the general requirement that the Agency, Board and Department of Energy and Natural Resources maintain public files. The four exceptions are: 1) trade secret material; 2) privileges recognized in judicial proceedings; 3) internal agency communications; and 4) information regarding secret manufacturing processes or confidential data. Section 7(c) also provides an overriding directive that:

> "nothwithstanding any other provisions of this Title or any other laws to the contrary, all emissions data reported to or otherwise obtained by the Agency, the Board or the Department of Energy and Natural Resources in connection with ... proceeding under this Act shall be available to the public to the extent required by the federal Clean Air Act Amendments of 1977 (P.L. 95-95) as amended." (Ill. Rev. Stat., ch. 111½, par. 1007)

35 Ill. Adm. Code 101.107 addresses the general issue of public information and implementation of Section 7 of the Act. 35 Ill. Adm. Code Part 120 of the Board's procedural rules specifically creates a procedure for claiming, justifying, adjudicating and protecting trade secret information.

Section 120.102 states, in pertinent part, that "statutory requirements for disclosure and non-disclosure contained in Section 7 of the Act ... supersedes any conflicting requirements in this Part and should be referenced prior to undertaking any of the procedures contained in this Part." The Board, in its January 8, 1987, Order, requested that Duo Fast address issues related to Section 7(c) of the Act and the requirements of the federal Clean Air Act (CAA), 42 U.S.C. 1857 et seq., in addition to its Justification under Part 120.

The Board will address, as a threshold issue, whether the information in the two claimed reports is required to be disclosed pursuant to Section 7(c) of the Act. If Section 7(c) applies to any portion of the material, that portion must be available to the public because it supersedes all other statutory or regulatory provisions. If the material is not subject to Section 7(c), the next level of inquiry is whether it represents confidential or trade secret material under the Act, Part 101 and Part 120 regulations.

I. Is Disclosure required by Section 7(c) of the Act?

Under Section 7(c) of the Act, emissions data shall be made available to the public to the extent required by the CAA. Section 114 of the CAA requires that certain emission data in the possession of the government be kept available to the public. Neither the Act nor Board rules define "emission data." "Emission data" is defined at 40 CFR 2.301(a)(2)(i) as:

> (2)(1) "Emission data" means, with reference to any source of emission of any substance into the air -
>
> (A) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing;
>
> (B) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source); and
>
> (C) A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

Duo Fast, in its Justification, contends that neither the R & D Summary nor the Y & A Report are emission data as defined by the applicable federal regulations. Duo Fast argues that prong (B) of the federal definition is inapplicable because the "necessary" information to determine what Duo Fast is "authorized" to emit is available in its permit and Board regulations. Duo Fast argues that prong (C) of the federal definition is inapplicable because "the location and nature of the emission source is clear and not confusable locally with any source." Regarding prong (A) of the federal definition, Duo Fast argues that the Agency "already requires Duo Fast to submit semi-annual data necessary to determine air emissions from the facility" (Justification, pp. 4-6).

Duo Fast bases its interpretation of the "necessary to determine" language of the federal definition on RSR Corporation v. EPA, 588 F. Supp. 1251 (N.D. Tex., 1984). In that case, the district court remanded an appeal of a United States Environmental Protection Agency (USEPA) trade secret determination because the administrative record did not show that USEPA (1) considered and examined all relevant factors and alternatives or (2) adequately explained the evidence regarding these relevant factors and alternatives. Id. at 1256. Duo Fast argues that RSR Corporation stands for the proposition that if there are alternative means of calculating or determining emissions other than through the use of trade secret claimed material, then that trade secret claimed material is not "necessary" to determine emissions and is therefore not emission data.

The Board does not believe that Duo Fast has correctly interpreted either the federal definition or the RSR Corporation opinion. The federal definition utilizes the phrase "necessary to determine" to broaden, rather than limit, what constitutes emission data under the CAA. A plain reading of the federal definition would indicate that the definition certainly includes actual emission data as well as the information necessary to calculate that emission data. This broader scope is necessary because in most circumstances involving sources of air pollution, there is no way to instantaneously measure and record actual air emissions. Air emissions are, typically, calculated from various types of data*. Certain measurement and calculation methods are more appropriate or accurate for different emission processes and pollutants. Another rationale for this broad definition is to ensure that emission data can be verified, rather than presented as a single number with no supporting data or calculations.

The federal definition of emission data is intended to be broad and flexible in order to account for different pollutants, different measurement and calculation techniques and differences related to quality and quantity of emissions. It would be untenable to exclude information that is clearly air emission data on the grounds that that information is hypothetically or actually calculable in a different form. Additionally, Duo Fast's argument that the claimed material does not constitute

* Examples of commonly used methods for determining air emissions include: the use of established emission factors to calculate emissions where an emission process is well defined and understood; actual emissions can be measured and used to estimate probable emission factors and rates; measurements of ambient concentrations of pollutants can be used in a model to "back-calculate" emissions from a specific source; mass balance calculations can be used where known amounts of materials used in a process, such as VOM's, can be directly correlated to emissions.

emission data because information "necessary to determine" the air emissions from its facility is publicly available in permits, regulations and monitoring reports could be contradictory. If certain information claimed to be a trade secret is publicly available in other forms, then it is possible that that information has not been kept confidential and, consequently, could fail one of the prongs of the test for trade secrecy. As that "other" information is not before the Board in this record, the Board makes no findings of fact on this issue.

Even if the Board were to accept Duo Fast's interpretation of the federal definition for emission data, the Board could not find that the information "necessary to determine" emission data was indeed publicly available or available to the Board in this proceeding or the R82-14 proceeding. Duo Fast has made very general reference to Board regulations, its permit and periodic monitoring reports filed with the Agency as the source of the "necessary" information (Justification pp. 5-6). Beyond these general references, there is no specific description, identification or citation to this information. This type of vague general references cannot provide an adequate factual basis for this Board to find that all necessary information to determine Duo Fast's air emissions is indeed publicly available. It would be unreasonable for this Board to bar public access to air emission data based on a general allegation that air emission can be determined through the use of other data that is available "somewhere." In fact, the information submitted by Duo Fast and claimed to be trade secret was specifically requested by the Agency and Board because it was not part of the R82-14 record and was deemed a necessary part of the record for decision.

The Board disagrees with Duo Fast's argument that prong (C) of the federal definition of emission data is inapplicable since "the location and nature of the emission source is clear and not confusable locally with any source." The issue is not whether Duo Fast's plantwide emissions are adequately identified in relation to other sources of air emissions but whether emissions from particular pieces of equipment within Duo Fast's facility are identified in terms of nature and source. This issue was first addressed by the Board in Classic Finishing Company, Inc. v. IEPA, PCB 84-174 Docket A, 62 P.C.B. 509 (February 7, 1985). In Classic, the Board construed the Act to require disclosure of "all emission data," including equipment emission data. The Board found that:

> "This comports with the definition of 'emission source' in 35 Ill. Adm. Code 202.102, which identifies both the equipment and the facility as a whole as 'emission source.' In determining what is the 'emission source' involved (and, therefore, the point of

> emission), the Board looks to the point at which the source is regulated."
> 62 P.C.B. at 511.

The Classic case dealt with a variance from 35 Ill. Adm. Code 215.204, which is the same rule at issue in the R82-14 proceeding, as it relates to Duo Fast. Section 215.204 applies to individual coating lines or coating equipment. Therefore, the coating line or equipment is the emission source of interest. The relevancy and importance of equipment specific emissions is illustrated by Duo Fast's own compliance efforts which have resulted in different levels of emission reductions from selected types of equipment.

R & D Summary

This document consists of a twelve page summary of Duo Fast's efforts since the early 1970's to reduce VOM's and comply with existing Section 215.204. Duo Fast claims the entire document as a trade secret. The R & D Summary narratively describes Duo Fast's efforts to eliminate certain VOM's in its manufacturing process, its research and development efforts regarding alternative methods of applying coatings and new coating formulation efforts. Upon review of this document, the Board finds that it does not contain emission data as contemplated by the Act or CAA. The document, at most, describes what is no longer used by Duo Fast and what the results of certain research and development projects were. One statement on page 12 does quantify, in terms of a percent, the overall reduction of VOM emissions achieved as a result of certain process changes. However, this percent figure is not significant in terms of calculating emissions from Duo Fast's facility as no base line quantification of past emissions is provided, nor are any underlying assumptions for this figure.

Y & A Report

Duo Fast claims discreet portions of this report as confidential trade secret information. The claimed information falls into three general categories: (1) the number and type of staple making machines at the Duo Fast facility and the VOM emission rates in tons per year from the various categories of staple making machines; (2) the configuration of an emission control system designed by Yates & Auberle, including emission "pick-up" points and ducting configuration; and (3) the location, in the plant floor, of the staple making machines. These three categories are designated by the Board for purposes of discussion and analysis. Duo Fast has not categorized the claimed information in this manner or explained the specific reason for claiming this material as a trade secret. The claimed material is found at pages 1-3, 5-7, 9, 11-13, Attachment A (complete), Attachment B (complete) and pages 1-2 of Attachment E.

The Board finds that the number and type of staple making machines at the Duo Fast facility and the VOM emission rates in tons per year from these various types of machines constitute emission data under the Act and CAA. 40 CFR 2.301(a)(2)(i)(A) defines emission data as "information necessary to determine the identity, amount, frequency, concentration, or other characteristics ... of any emission which has been emitted by the source..." (emphasis added). In the instant case, Duo Fast operates over 100 conventional staple making machines and a number of light and heavy wire machines at its Franklin Park facility. Each of these machines is an individual emission source regulated by 35 Ill. Adm. Code 215.204. This regulation specifies emission limitations that apply to the coating line or equipment. Each staple making machine, as a part of its designated function, coats staples and, consequently, emits VOM. Some of the machines have numerous emission points. Different types of machines making different types of staple products emit different rates of VOM.

Because Duo Fast operates a complex, multi-process facility with numerous emission sources, the best and perhaps the only feasible method of determining VOM emissions from the Duo Fast facility is to calculate them from the individual VOM emission rates of each machine, the hours of operation of these machines and, of course, the number of machines operating. There is no single pipe, stack or vent that can be measured. Consequently, "necessary" information to determine emissions includes the number and type of staple making machines as well as the VOM emission factors or rates for those machines. Consistent with this determination, the Board finds that the following claimed information in the Y & R Report constitutes air emission data: P.1 - all claimed information; P.2 - all claimed information except first paragraph, first line, tenth word; P.2 footnote - second line, sixth and seventh word; P.3 - all claimed information; P.5 - all claimed information; P.6 - all claimed information; P.7 - all claimed information; P.9 - all claimed information except fifth paragraph, third line, fourth word; P. 11 - all claimed information; P. 12 - all claimed information; P.13 - all claimed information; Attachment E - P.1-2 - all claimed information.

The second general category of claimed information consists of certain references and diagrams showing the design and configuration of a hypothetical air pollution control system utilizing catalytic and thermal oxidizers. This hypothetical system would bring Duo Fast into compliance with the amendment to 35 Ill. Adm. Code 215.204 proposed in R82-14. This system is not currently in operation nor is it considered an economically reasonable option by Duo Fast. The claimed information consists of various references to the number of "pick-ups" points for a ducting system and two attachments (A & B) showing the configuration of the duct system over the various staple making

machines and the points of capture over VOM emission sources. The third general category of information is contained in these same two attachments and consists of the location on the plant floor of the various staple making machines.

The Board finds that the claimed information in these two general categories does not constitute emission data under the Act or CAA. The design and configuration of a hypothetical control system, in these circumstances, is not necessary for calculating or determining emissions that have occurred or are authorized. Nor is it necessary to distinguish emission sources. Also, in these circumstances, the location of the various staple making machines is not significant in terms of emission data. The individual staple making machines are located on a commmon plant floor and are housed by a common roof enclosure. Consequently, their precise location is not significant in determining air emissions, as they emit VOM into a common enclosed space. These determinations are specific to the facts of this case and the Board does not hold that design and configuration of a control system could not be significant in determining air emissions in other circumstances. Likewise, emission source equipment configuration could be considered significant in terms of air emissions in other circumstances.

Consistent with these determinations, the Board finds the following does not constitute air emission data under the Act or CAA: P.1 - first paragraph, first line, tenth word; P.1 - footnote, second line, sixth and seventh word; P.9 - fifth paragraph, third line, fourth word; Attachment A - entire document; Attachment B - entire document.

II. Does the Claimed Information Constitute a Trade Secret?

The balance of the claimed material not determined to be emission data must now be analyzed as to whether it is a protectable trade secret. Under the Act and Part 120, a trade secret must meet a two-pronged test: (1) it must have been kept secret and confidential and (2) it must have competitive value.

Duo Fast, in its Justification, states that both the R & D Summary and the Y & A Report were prepared specifically for the R82-14 proceeding and for no other purpose. Neither document has been submitted to any other person or organization, except that a copy of the Y & A Report with all confidential information deleted was supplied to the EcIS contractor in R82-14. Both reports have been submitted to the Agency but only with similar claims of confidentiality. Internally, copies of both articles are limited and confined to secure files at: (1) Duo Fast's corporate headquarters; (2) the offices of environmental consultant Yates & Auberle; and (3) its law firm, Coffield, Ungaretti, Harris & Slaven. The only other persons to whom this material has been disclosed are appropriate Agency and Board

personnel pursuant to Part 120. Duo Fast states that the articles can also be disclosed to appropriate USEPA personnel in their confidential form, as support for the R82-14 proceeding. Duo Fast provides a Certificate by the Manager of Duo Fast's Department of Chemistry and Chemical Engineering that Duo Fast has no knowledge that either of these documents has ever been published, disseminated or otherwise become a matter of general public knowledge (Justification, pp. 2-3). On the basis of these statements, the Board finds that the information meets the first "prong" of the two-pronged trade secret test. The Board does note, however, that the number and type of machines were disclosed at hearing on March 20, 1986 (R82-14, R. 3366-3368). Also certain other claimed information contained in the Y & A Report is calculable from information that is not claimed (Y & A Report, p. 2). However, in each of these instances, this claimed information is determined by the Board to constitute emission data and is therefore not subject to the trade secret analysis.

Duo Fast further asserts that the information contained in the documents "...concerns state-of-the-art secret manufacturing techniques and process formulas developed by Duo Fast, only after extensive research and development efforts." Duo Fast would lose its competitive advantage if such information was made available to competitors. The claimed information would enable Duo Fast's competitors to copy Duo Fast's unique manufacturing process and discover Duo Fast's state-of-the-art compliance coatings. This would effectively destroy the market advantages developed by Duo Fast through its research and development program (Justification, p. 4). On the basis of these arguments and evidence in the form of affidavit, the Board concludes that the claimed material has competitive value. The Board finds that the R & D Summary, in its entirety, constitutes a protectable trade secret and that the balance of the Y & A Report, not found to be emission data, constitutes a protectable trade secret.

III. May Duo Fast Withdraw Unprotectable Material?

In its Order of January 8, 1987, the Board requested that Duo Fast address the following question:

> "If the material is determined to be air emission data, must the Board, under state and federal law, make this information available to the public?"

The Board posed this question because it had concerns that the mandatory language in Section 7(c) requiring the availability to the public of emission data in possession of government.

Duo Fast responded that there was no apparent legal authority barring the return of certain materials to its owner. Duo Fast further argues that 35 Ill. Adm. Code 101.107(c)(3)

contemplates a process of withdrawal by the applicant after a Board determination. Additionally, Duo Fast argues that it submitted the information with the condition that if a determination adverse to Duo Fast is made by the Board, it be allowed to withdraw that material.

The Board finds that Duo Fast may withdraw those portions of the claimed material determined by the Board to be disclosable under Section 7(c) of the Act. The process in which trade secrets are handled and determined by an agency of government entails the balancing of the property interest of the owner of a trade secret and the statutorily mandated interests of the public to view emission data in the possession of a government agency. Section 7 and 7.1 of the Act clearly recognize these competing interests. Section 7(c) incorporates an overriding requirement that emission data in possession of government must be available to the public to the extent required by the CAA. The Board is cognizant of the fact that public availability of emission data is an important element of an approvable state implementation (SIP) under the CAA. NRDC v. USEPA, 478 F.2d 875 (1973), (where court determined that administrator of USEPA should have disapproved SIP where state statutes and regulations allowed emission reports to be held confidential). However, these requirements do not prevent withdrawal from the possession of a government agency, information conditionally submitted for purposes of trade secret determination.

Duo Fast submitted the claimed articles with the caveat that they would be kept confidential pending a determination by the Board and that they could be withdrawn from the possession of the Board if determined to be disclosable. Duo Fast triggered a process created by the Act and regulations whereby claimed trade secret articles are kept confidential and the agency in possession goes through a formal determination process. Under these circumstances, Duo Fast has a strong expectation that its property interest will be protected by the terms of its conditional submission and the Part 120 determination process. To refuse withdrawal of the articles and require disclosure would unreasonably interfere with Duo Fast's property rights. Additionally, the practical impact of a contrary decision would be the end of voluntary submission to government agency of necessary information.

Duo Fast can also appeal today's determinations. During the pendency of an appeal, the claimed information continues to be treated in a confidential manner pursuant to Section 120.240.

IV. Sufficiency of the R82-14 Record for Board Decision and USEPA Review

The Board, by its January 8, 1987, Order, also requested that Duo Fast respond to the following question:

> "In the event Duo Fast withdraws the material at issue, will the Board's record be sufficient for decisionmaking and SIP submittal?"

Duo Fast's contends that even if all the claimed information was withdrawn, the record in R82-14 would support Duo Fast's position as other evidence exists on both the subject matter of the R & D Summary and the Y & A Report. This issue is more properly considered in the context of the R82-14 rulemaking and will not be considered further in this docket.

V. Record of Decision Supporting this Opinion and Order

As the Board separately docketed the Duo Fast trade secret determination from the R82-14 proceeding, it is necessary to designate the record for today's decision. The record considered by the Board in the PCB 87-4 docket consists of those documents filed in PCB 87-4 and the documents enumerated in number 3 of the following order from the R82-14 docket. The Clerk of the Board is directed to incorporate these documents into the PCB 87-4 docket.

The above Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

1. For the reasons stated in the Opinion above, the Board finds that the entire document entitled "Areas of Activity Relating to VOC Emission Reduction" constitutes a trade secret. The Board finds that the following portions of the document entitled "Duo Fast Corporation Control Equipment Evaluation" constitute a trade secret:

   P.2 first paragraph, first line, tenth word;

   P.2 footnote, second line, sixth and seventh word;

   P.9 fifth paragraph, third line, fourth word;

   Attachment A - entire document; and

   Attachment B - entire document.

   The Clerk of the Board is ordered to continue to protect these articles as trade secrets pursuant to Subpart C of 35 Ill. Adm. Code 120 and to mark these document (or appropriate portions thereof) with the word "DETERMINED" pursuant to 35 Ill. Adm. Code 120.310.

2. For the reasons stated in the Opinion above, the Board finds that the following portions of the document entitled "Duo Fast Corporation Control Equipment Evaluation" constitute air emission data and are required to be made available to the public pursuant to Section 7(c) of the Environmental Protection Act:

P.1 all claimed information;

P.2 all claimed information except:

- the first paragraph, first line, tenth word and
- the footnote, second line, sixth and seventh word;

P.3 all claimed information

P.5 all claimed information

P.6 all claimed information

P.7 all claimed information

P.9 all claimed information except:

- the fifth paragraph, third line, fourth word;

P.11 all claimed information; and

Attachment E, pp. 1-2 - all claimed information.

The Clerk of the Board is ordered to continue to protect these articles as trade secrets pursuant to Subpart C of 35 Ill. Adm. Code 120 for 35 days from the date of this Order. If, within that 35 days, the Board does not receive a Motion for Reconsideration or Modification of this Order, a notification of a petition for review of this Order, or a motion requesting withdrawal of the articles determined to be emission data, the Clerk is ordered to make these articles available for public inspection and to notify the owner.

If the Board receives a Motion for Reconsideration or Modification of this Order or a notification of a petition for review of this Order by a court of competant jurisdiction, the Clerk is ordered to continue to protect these articles as trade secrets pursuant to Subpart C of 35 Ill. Adm. Code 120 until otherwise ordered by the Board.

3. The following documents from the R82-14 docket are incorporated into the PCB 87-4 docket as part of the record of decision in this matter:

1. December 2 & 3, 1985, Hearing Transcript;

2. March 20, 1986, Hearing Transcript;

3. August 4, 1986, Hearing Transcript;

4. September 4, 1986, Hearing Transcript;

5. October 30, 1986, Hearing Transcript;

6. Exhibits: 86, 87, 89, 92, 93, 96, 119, 120, and 125 through 137;

7. Public Comments: 72, 75, 76, 78, 88, 91, 93, 94, 96, 98, 99 and 103;

8. 8/26/85 - Motion to Reopen the Record (Dockets A & B);

9. 8/30/85 - Request for Public Hearing by CACI;

10. 9/05/85 - Order of the Board: Motion for Public Hearing granted;

11. 9/20/85 - Order of the Board (Dockets A & B);

12. 11/25/85 - Motion to Further Amend (Dockets A & B);

13. 1/10/86 - Chicago Association of Commerce and Industry and Duo Fast Corporation's Motion for Further Hearings;

14. 2/10/86 - Hearing Officer Order;

15. 3/14/86 - Notice of Testimony; Testimony on behalf of Chicago Association of Commerce and Industry;

16. 3/14/86 - Agency Amendments and Prepared Testimony for Hearing on March 20, 1986;

17. 3/17/86 - Testimony on behalf of Chicago Association of Commerce and Industry (3/20/86 hearing);

18. 3/17/86 - Testimony on behalf of Duo Fast Corporation by Donald J. Kurr (3/20/86 hearing);

19. 4/3/86 - Objections to the Agency's Motion to Amend 35 Ill. Adm. Code 215.204;

20. 4/10/86 - Interim Order of the Board;

21. 5/22/86 - Interim Order of the Board by B. Forcade;

22. 5/29/86 - Hearing Officer Order Regarding Various Matters;

23. 6/2/86 - Agency Motion to Correct Transcripts;

24. 7/1/86 - Duo Fast's Proposed Amendments to 35 Ill. Adm. Code 215: Subpart F: Coating Operations; Motion for Extension of Time to File Testimony;

25. 7/11/86 - Order of the Board by B. Forcade;

26. 7/14/86 - Agency Testimony and Attachments/References for RACT III hearings 8-4-86 through 8-8-86;

27. 7/23/86 - Hearing Officer Order;

28. 7/28/86 - Agency Motion to Amend 35 Ill. Adm. Code 215.204;

29. 7/29/86 - Duo Fast's Motion for Leave to Present Testimony and for Scheduling Order;

30. 7/31/86 - Order of the Board by B. Forcade: motion for leave to present testimony and for scheduling Order granted;

31. 8/8/86 - Testimony on behalf of Duo Fast by Donald J. Kurr and John J. Yates for 9/3/86 hearing;

32. 8/13/86 - Agency Motion for Modification of Board Order Dated May 22, 1986;

33. 8/14/86 - Order of the Board by B. Forcade: motion for modification of May 22, 1986, Board Order granted;

34. 8/22/86 - Testimony of Chris Romaine (Sec. 215.204) for September 3-9, 1986, hearings;

35. 8/22/86 - Duo Fast's Rebuttal Testimony of Donald J. Kurr; Exhibit-Letter dated August 20, 1986, from Smith Engineering; Exhibit-Affidavit of Richard E. Burton;

36. 8/25/86 - Hearing Officer Order Regarding Various Matters;

37. 8/28/86 - Copy of letter to Susan J. Schroeder by Shell J. Bleiweiss;

38. 10/15/86 - Duo Fast's Joint Motion to Cancel Hearing;

39. 10/16/86 - Duo Fast's Motion to Correct Transcript;

40. 10/29/86 - Duo Fast's Motion to Withdraw Petition for Site-Specific Relief and to Substitute Three Sets of Alternative Language for Amending Rule 215.204;

41. 11/10/86 - Hearing Officer Order Regarding Various Matters;

42. 11/10/86 - Agency Motion to Correct Transcript (Hearing held 9/4/86);

43. 11/17/86 - Agency Motion to Extend the Close of Record;

44. 11/20/86 - Order of the Board by B. Forcade: Agency motion to extend the close of record granted; Record will close December 12, 1986;

45. 12/11/86 - Agency Motion to Further Amend 35 Ill. Adm. Code 211.122 and 215.204 (Filed with Public Comment #99);

46. 12/12/86 - Motion to Withdraw Petition on behalf of Duo Fast;

47. Duo Fast Confidential Trade Secret Claim and Record Submittal; and

48. 1/8/87 - Interim Order of the Board: Trade Secret Determination docketed as PCB 87-4.

The Clerk of the Board is directed to incorporate duplicates of these documents into the PCB 87-4 docket.

IT IS SO ORDERED.

Board Member J. Theodore Meyer voted present.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 5th day of March, 1987, by a vote of 5-0.

Dorothy M. Gunn

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board