

ILLINOIS POLLUTION CONTROL BOARD  
January 9, 1986

CLASSIC FINISHING CO., INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 84-174
	)	Docket B
ILLINOIS ENVIRONMENTAL	)	Docket C
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by J. Anderson):

On December 17, 1985, a hearing was held concerning the October 21, 1985 Second Amended Revised Petition for variance from 35 Ill. Adm. Code 215.204(c) filed by Classic Finishing Co., Inc. (Classic)

At that hearing Classic submitted two exhibits, #4 and #5, which were claimed as "trade secrets or other confidential information." The Exhibits were admitted by the hearing officer under a protective order with the understanding that proper procedural Motions would be submitted to the Board and subject to any Board determination regarding disclosure (R. 23, 28).

On December 20, 1985, Classic filed with the Board a Trade Secret Claim for Exhibits 4 and 5 under PCB 84-174 (Docket A). On January 8, 1985, Classic requested that the inadvertent "Trade Secret" stamp on its claim letter be disregarded. Classic asserts in part that, pursuant to Section 7 and 7.1 of the Environmental Protection Act (Act) and 35 Ill. Adm. Code Part 120 (Trade Secrets), Exhibits 4 and 5 must be protected from public disclosure to ensure the competitiveness of Classic's products.

As authorized by 35 Ill. Adm. Code 120.215, the Board hereby requests Classic to justify its claim pursuant to Section 120.202. Specifically, the Board requests Classic to address the question of whether the Section 7(c) public availability requirement applies to the emissions data in Exhibit 5, pp. 1 and 3. At hearing, the Petitioner's attorney gave in unsworn testimony an unlimited waiver of decision on the variance petition (R. 52). However, in its December 20, 1985 filing, petitioner gave a limited waiver, assumedly pursuant to Part 120, Section 120.203.

Pending clarification of the decision timetable, the Board hereby establishes Docket C, within the PCB 84-174 number, for the trade secret determination, as final determinations have already been made in Docket A for other trade secret matters. The trade secret determination involves a decision separate from

that required in variance proceeding, and the two decisions do not share a common timetable. Thus, this trade secret proceeding will hereinafter be known as PCB 84-174, Docket C, and the variance proceeding will continue as PCB 84-174 Docket B.

The parties are requested to designate the appropriate docket on all pleadings. Therefore, pending clarification of the waiver, the Board construes Classic's waiver as waiving the 90 day variance decision deadline of Section 38(a) for a period equal to the time provided in Part 120 for Board determination of Classic's trade secret claim, plus 10 working days.

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 9th day of January, 1986, by a vote of 7-0.

*Dorothy M. Gunn*

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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board