

ILLINOIS POLLUTION CONTROL BOARD
November 7, 1991

PEOPLE OF THE)
STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 91-157
) (Enforcement)
)
THE GRIGOLEIT COMPANY,)
)
Respondent.)

ORDER OF THE BOARD (by J. Anderson):

On October 8, 1991, the Grigoleit Company ("Grigoleit") filed a motion to dismiss and strike the September 4, 1991 complaint in this matter, a brief in support of its motion to dismiss and strike, a motion to file the motion to dismiss and strike instanter, and a motion to file a brief in excess of 15 pages. On October 10, 1991, the Attorney General, on behalf of the People of the State of Illinois ("AG"), filed an objection to Grigoleit's motion to dismiss and strike and Grigoleit's motion to file a brief in excess of 15 pages.

In its motion to file its motion to dismiss and strike instanter, Grigoleit states that it was unable to timely file its motion to dismiss and strike because of the length (30 pages) and complexity of the AG's complaint.

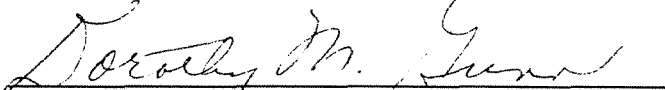
In response, the AG objects to Grigoleit's motion to file instanter and asks the Board to deny the motion. In support of its request, the AG notes that although 35 Ill. Adm. Code 103.140(a), requires respondents to file motions to dismiss within 14 days of receipt of the complaint, Grigoleit filed its motion to strike and dismiss after the deadline specified in 35 Ill. Adm. Code 103.140(a). The AG also argues that Grigoleit's motion contains numerous misstatements of law and facts, that requiring the AG to reply to a defective motion and excessive brief would be a waste of its resources and those of the Board, and that any reply would delay the resolution of this matter as well as Grigoleit's compliance with the Act and regulations. Finally, the AG notes that it will not file a reply to Grigoleit's motion to dismiss and strike until the Board rules on Grigoleit's motion to file instanter.

The AG correctly notes that 35 Ill. Adm. Code 103.140(a) states that all motions to dismiss or strike the complaint or challenging the jurisdiction of the Board shall be filed within 14 days after receipt of the complaint. In its motion to file instanter, Grigoleit states that it received the complaint on

September 3, 1991. However, Grigoleit filed its motion to strike or dismiss on October 8, 1991, 35 days after Grigoleit received the complaint. Moreover, Grigoleit has not provided the Board with any extenuating circumstances that persuade us to grant their motion to file instanter. Accordingly, the Board hereby denies Grigoleit's motion to file its motion to dismiss or strike instanter. As a result of our ruling, Grigoleit's remaining filings are rendered moot.

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 7th day of November, 1991 by a vote of 7-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board