

ILLINOIS POLLUTION CONTROL BOARD  
November 8, 1990

OLIN CORPORATION (Joliet Plant) )  
  )  
                  Petitioner,          )  
  )  
                  v.                      )          PCB 89-72  
  )          (Variance)  
ILLINOIS ENVIRONMENTAL                  )  
PROTECTION AGENCY,                      )  
  )  
                  Respondent.          )

ORDER OF THE BOARD (by B. Forcade):

This matter comes before the Board on a third amended petition and a motion for expedited Board decision filed by Olin Corporation ("Olin") on November 7, 1990. The subject proceeding involves Olin's petition for variance from the Board's air regulations at 35 Ill. Adm. Code 212.321. Hearing is scheduled for November 12, 1990. Olin's motion for expedited decision is hereby granted in so far as the Board is able to expedite its decision consistent with other proceedings already before the Board.

On November 7, 1990 Olin also filed a motion to the hearing officer for entry of a protective order intended to establish the confidentiality of certain documents and testimony pursuant to 35 Ill. Adm. Code 101.261. Olin seeks restricted access for "Confidential Matter" described as "materials which contain highly confidential, proprietary and sensitive information including documents and testimony concerning economic and financial issues." Olin also states that "Confidential Matter may be designated as such by placing a 'confidential' stamp on any document or by designating information as confidential prior to a witness' answer to a question during hearing testimony." See p.2, Protective Order, executed by Olin and the Illinois Environmental Protection Agency ("Agency").

At this time the Board must deny Olin's motion for entry of a protective order since Olin has failed to comply with 35 Ill. Adm. Code 101.161 (b), which states, in pertinent part:

...An application for non-disclosure other than pertaining to trade secrets shall contain the following:

- 1) Identification of the precise material, or parts of material, for which non-disclosure is sought;
- 2) Indication of the particular non-disclosure category into which the material falls; and
- 3) A concise statement of the reasons for requesting non-disclosure. The application shall be verified by affidavit and contain such information as will inform the Board of the nature of material for which non-disclosure is sought, the reasons why non-disclosure is necessary, and the number and title of all persons familiar with such information, and how long the material has been limited from disclosure.

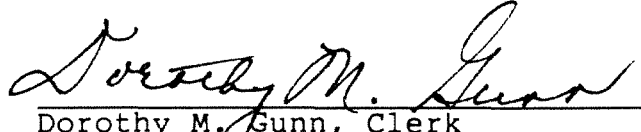
35 Ill. Adm. Code 101.161 (b)

The information filed by Olin indicates that Olin seeks protection for the entire testimony of the witness including his name and credentials. Clearly, this is an overbroad claim. The Board also notes that any information representing emissions data may not be maintained as confidential pursuant to Section 7(c) of the Act. The Board will temporarily maintain Olin's filing as confidential. However, Olin is directed to file an original and nine copies of this initial filing in which only the precise material for which non-disclosure is legitimately sought has been whited-out or otherwise obscured. Such expurgated copies will be maintained in the public files, while the full text document will be maintained in the Clerk's locked, security files.

Olin may refile its motion, specifically identifying only that material for which non-disclosure is sought and the category into which the material falls, with appropriate statement of reasons and affidavit. For further guidance Olin is directed to the procedures found in 35 Ill. Adm. Code 120.201, et seq.

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 14 day of November, 1990, by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board