

ILLINOIS POLLUTION CONTROL BOARD
September 2, 2010

VAN ZELST LANDSCAPE COMPOST)
FACILITY,)
)
Petitioner,)
)
v.) PCB 11-7
) (Permit Appeal - Land)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by G. T. Girard):

On August 20, 2010, Van Zelst Landscape Compost Facility (Van Zelst) filed a request for a 90-day extension (Pet.) from a July 22, 2010 determination by the Illinois Environmental Protection Agency (Agency) denying a permit to Van Zelst. The permit denial concerns Van Zelst's facility located at 39400 North Highway 41 in Wadsworth, Lake County. For the reasons below, the Board accepts Van Zelst's timely filed request as a petition to contest the permit denial, but directs Van Zelst to file an amended petition to cure deficiencies identified in this order.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008)), the Agency is the permitting authority responsible for administering Illinois' regulatory programs to protect the environment. If the Agency denies a permit or grants one with conditions, the permit applicant may appeal the Agency's decision to the Board. *See* 415 ILCS 5/4, 5, 40(a)(1) (2008); 35 Ill. Adm. Code 105.Subpart D.

On March 10, 2010, Van Zelst filed a permit application to develop and operate a landscape waste compost facility. The Agency received Van Zelst's permit application on March 24, 2010. In the denial, the Agency explained that granting Van Zelst's permit would result in violations of the Illinois Environmental Protection Act (Act). As required under Section 39(a) of the Act, the Agency provided specific reasons for the denial. 415 ILCS 5/39(a). Pursuant to 35 Ill. Adm. Code 830.203(a)(3), the Agency specifically denied the permit because the proposed facility "does not meet the required setback of an 1/8 of a mile from the nearest residence." *See* Pet. Attach. 1 at1.

The Agency timely responded to Van Zelst's permit application, and on August 20, 2010, Van Zelst timely filed a request for a 90-day extension to appeal. However, Van Zelst's request was not jointly filed with the Agency, as required. *See* 415 ILCS 5/40(a)(1) (2008); 35 Ill. Adm. Code 101.300(b), 105.206(c), 105.208(a),(c).

For the reason above, the Board does not accept the request for an extension, but accepts Van Zelst's request as a petition to contest the permit denial. Additionally, the Board accepts Van Zelst's petition as timely filed, but finds that the petition contains deficiencies that must be remedied before the case can be accepted for hearing.

The Board directs Van Zelst to file an amended petition by October 4, 2010, which is the first business day following the 30th day after the date of this order. The amended petition must state one or more acceptable grounds for contesting the permit denial. 35 Ill. Adm. Code 108.206. Van Zelst must also serve a copy of the amended petition upon the Agency and file proof of service with the Board. 35 Ill. Adm. Code 101.304. If Van Zelst fails to provide an amended petition in accordance with this order, the Board will dismiss this case and close the docket.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on September 2, 2010, by a vote of 4-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board