

ILLINOIS POLLUTION CONTROL BOARD
June 23, 1994

BURLINGTON ENVIRONMENTAL INC.,)
)
Petitioner,)
)
v.) PCB 94-177
) (Variance)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD:

On June 9, 1994, Burlington Environmental Inc. (Burlington) filed a petition for variance from 35 Ill. Adm. Code §§721.104(f)(3) and (4) to the extent those regulations limit the quantity of media contaminated with acute hazardous wastes that may be treated or stored during treatability studies. Burlington seeks this variance in order to enable it to use a large scale model to conduct treatability studies of an innovative thermal technology for treating contaminated soils at its Madison County facility. In the alternative, Burlington seeks a declaration from the Board that a variance is unnecessary because the treatability studies exclusion limits of 35 Ill. Adm. Code §§721.104(f)(3) and (4) apply to its proposed pilot tests for recovery of contaminants from media contaminated with non-acute hazardous waste. The petition contains some material claimed as a trade secret.¹

Burlington's petition is insufficient in that it does not contain a compliance plan. Instead, it announces an intent to file a petition for site-specific rulemaking or an adjusted standard sometime "in June 1994." (Pet. at 18). Generally the Board has found that an intention to file for site-specific relief at some future date does not constitute a compliance plan. 35 Ill. Adm. Code 104.121(f) requires that petitions contain a detailed description of the existing and proposed equipment or proposed method of control to be undertaken to achieve full compliance with the Act and regulations, including a time schedule for the implementation of all phases of the control

¹In Burlington's June 16, 1994 filing, it waived only the trade secret deadline until July 21, 1994. Pursuant to 35 Ill. Adm. Code 101.161(c) the Board will protect from disclosure the information claimed to represent a trade secret until a final trade secret determination is made.

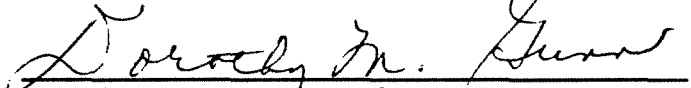
program from initiation of design to program completion and the estimated costs involved for each phase and the total cost to achieve compliance. The Board has previously held that the mere intent to file for such relief in the future is insufficient to satisfy this requirement. See, DMI v. IEPA (December 20, 1990), PCB 90-227).

If an amended petition curing this deficiency is not filed within 45 days of the date of this order, this petition will be subject to dismissal. The filing of an amended petition will restart the Board's decision timeclock pursuant to Section 35.

Finally, Burlington has attempted to waive public hearing on its variance request. (Pet. at 2). However, public hearing is required for RCRA variance petitions. See 35 Ill. Rev. Stat. 104.141(b).

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 23rd day of June, 1994, by a vote of 6-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board