

ILLINOIS POLLUTION CONTROL BOARD
November 10, 1977

ENVIRONMENTAL PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 77-187
)
CITY OF MT. VERNON, a municipal)
corporation, and HUMBLEWIT FARMS,)
INC.,)
)
Respondents.)

ORDER OF THE BOARD (by Mr. Young):

On September 26, 1977, the City of Mt. Vernon filed a Motion to Dismiss and/or Make More Specific. The Complainant responded on October 24, 1977, with an Objection to the Motion and filed a Motion to Reconsider the dismissal of Respondent, Humblewit Farms.

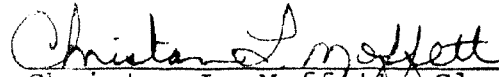
The City of Mt. Vernon seeks dismissal of Count I on the grounds that Public Health Rule 5.07(b) was repealed on July 27, 1973, and is no longer of any force or effect; the Board does not agree. Sections 49(b) and (c) of the Act clearly preserves any violation of Public Health Rule 5.07(b) as does Rule 102 of Chapter 7 and the Motion to Dismiss as to Count I is hereby denied. The Board further finds that the allegations of Count I are sufficiently specific and do state a cause of action.

The City of Mt. Vernon seeks dismissal of Count II because no portion of the site was open after July, 1970, and Rule 305 (c) of Chapter 7 was effective only for sites in operation after July 27, 1973. For the reasons set forth in our Order of September 15, 1977, Count II is hereby dismissed.

Regarding Complainant's Motion to Reconsider the Order entered herein on September 15, 1977, the Board now reaffirms the prior Order, and the Motion to Reconsider is hereby denied.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 10th day of November, 1977 by a vote of 50.



Christan L. Moffett, Clerk
Illinois Pollution Control Board