

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

W.R. MEADOWS, INC.,

Petitioner,

vs.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.

Case No. PCB 06-140
(Permit Appeal - Air)

PETITION FOR REVIEW OF PERMIT DECISION

NOW COMES the Petitioner, W.R. MEADOWS, INC. (hereinafter "Petitioner or "W.R. Meadows"), by and through its attorneys, Hinshaw & Culbertson LLP, and pursuant to Section 40(a)(1) of the Illinois Environmental Protection Act (the "Act"), 415 ILCS 5/40(a)(1) and 35 Ill. Admin. Code Part 105, Subpart B, hereby requests review by the Illinois Pollution Control Board ("Board") of a decision by the Respondent, the Illinois Environmental Protection Agency (the "Agency" or "IEPA"), to deny Petitioner's Application for Renewal of Operating Permit for certain emissions sources and manufacturing operations at Petitioner's Hampshire, Illinois, facility.

In support of its Petition, the Petitioner states as follows:

1. Petitioner, W.R. MEADOWS, INC., is a Delaware corporation authorized to do business in the State of Illinois.
2. Petitioner operates a facility located at the common address of 300 Industrial Drive, Hampshire, Illinois, in Kane County. The area surrounding the Hampshire facility is predominantly rural.
3. The Petitioner's Hampshire facility has been operating in compliance with Operating Permit No. 74010054. On or about October 31, 2005, Petitioner timely filed its

Application for Renewal of Operating Permit to continue Operating Permit No. 74010054 in full force and effect.

4. On or about January 25, 2006, Mr. Donald E. Sutton, P.E., Manager of the Permit Section, Division of Air Pollution Control for the IEPA, denied Petitioner's Application for Renewal of Operating Permit. A copy of the IEPA's Permit Denial letter dated January 25, 2006, is attached to this Petition as Exhibit 1.

5. Petitioner received the IEPA's Permit Denial letter on January 30, 2006, via certified mail. On February 24, 2006, the Petitioner and IEPA filed a Joint Request for Extension of Time to File Petition for Review. The Joint Request was timely filed within the thirty-five (35) day "initial appeal period" prescribed by Board Rule 105.208 and Section 40(a)(1) of the Act.

6. On March 2, 2006, the Board issued its Order accepting the Joint Request for Extension of Time to File Petition for Review and extending the appeal period until April 29, 2006, at the parties request. The Board's Order further provided that if W.R. Meadows "...fails to file an appeal on or before that date, the Board will dismiss this case and close the docket." A copy of the Board's March 2, 2006, Order is attached to this Petition as Exhibit 2.

(NOTE: The caption of the Board's Order incorrectly identifies this matter as a "(UST Appeal), (90-Day Extension)," but the text of the Order clearly identifies these proceedings as an appeal of an air permit denial and not an appeal of a determination of the IEPA concerning an underground storage tank.)

7. In compliance with the Board's March 2, 2006, Order, Petitioner now files its Petition for Review within the prescribed extended appeal period.

8. The IEPA's Permit Denial letter states that Petitioner's Operating Permit cannot be renewed because "...actual emission of volatile organic materials (VOM) from your facility exceeds Clean Air Act Permit Program (CAAPP) major sources threshold level of 100 tons/year defined in Section 39.5(2)(c)." As a result, IEPA determined that the existing Operating Permit could not be renewed and Petitioner must submit an application to obtain a Clean Air Act Permit Program ("CAAPP") Operating Permit pursuant to Section 39.5 of the Act.

9. The factual basis for IEPA's Permit Denial, specifically its allegation that "actual emission" of VOM exceeds 100 tons/year, is incorrect. The Application for Renewal of Operating Permit and additional information in the permitting files for the Hampshire facility demonstrate that actual, non-fugitive emissions from all emissions sources and operations at the facility do not exceed the 100 tons/year "major source" threshold.

10. Emissions of VOM from sources, equipment and operations at the Hampshire facility do not exceed the "major source" threshold which would subject the Hampshire facility to the requirement to obtain a CAAPP Operating Permit pursuant to Section 39.5 of the Act. Therefore, IEPA erred in denying Petitioner's Application for Renewal of Operating Permit; issuance of a Lifetime Operating Permit for the Hampshire facility is not prohibited by 35 Ill. Admin. Cod Section 201.169(a)(1), as asserted by the IEPA in its Permit Denial.

11. Renewal of Petitioner's Operating Permit, as requested in Petitioner's Application for Renewal would be in compliance with all applicable requirements of the Act and the Board's implementing regulations, including the following:

a. In compliance with 35 Ill. Admin. Code Section 201.169(a), Petitioner's Hampshire facility is not subject to the requirements of Section 39.5 of the Act and is not required to have a federally enforceable State operating permit.

b. In compliance with 35 Ill. Admin. Code 201.169(a)(2) and (b)(2), Petitioner filed its Application for Renewal of Operating Permit within the time period provided by the IEPA; the existing Operating Permit had not expired under 35 Ill. Admin. Code Section 201.169(b)(2) and therefore, the terms and conditions of said Operating Permit should have remained in effect pending issuance by IEPA of a new or revised Operating Permit.

c. Petitioner has made no changes at the Hampshire facility that would require issuance of a revised Operating Permit pursuant to 35 Ill. Admin. Code Section 201.169(c), or which would remove the Hampshire facility from applicability under Section 201.169.

12. The IEPA should have renewed Petitioner's existing Operating Permit as requested in Petitioner's timely submitted Application for Renewal of Operating Permit. Issuance of the renewed Operating Permit would be in full compliance with the Act and the Board's implementing regulations.

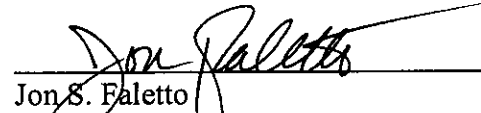
WHEREFORE, for the foregoing reasons, the Petitioner respectfully requests that the Board reverse the IEPA's January 25, 2006, Permit Denial and enter an Order directing IEPA to issue a new Operating Permit with no revisions or alterations, in compliance with 35 Ill. Admin. Code 201.169 and all other applicable provisions of the Act and implementing Board regulations.

Dated: April 28, 2006

Respectfully Submitted,

On behalf of W.R. MEADOWS, INC.

By: Hinshaw & Culbertson LLP



Jon S. Faletto
One of Its Attorneys

HINSHAW & CULBERTSON LLP
456 Fulton Street, Suite 298
Peoria, IL 61602-1220
309-674-1025

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

W.R. MEADOWS, INC.,)	
)	
Petitioner,)	
)	
vs.)	Case No. PCB 06-140
)	(Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this 28th day of April 2006, I have served the attached *Petition for Review of Permit Decision*, by depositing same via First Class U.S. Mail with proper postage prepaid, upon the following persons:

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601

Robb Layman
Assistant Counsel - Bureau of Air
Division of Legal Counsel
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

Dated: April 28, 2006

Respectfully Submitted,

On behalf of W.R. MEADOWS, INC.

By: Hinshaw & Culbertson LLP



Jon S. Faletto
One of Its Attorneys

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Exhibit 1

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. Box 19506, SPRINGFIELD, ILLINOIS 62794-9506 - (217) 782-2113

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217/782-2113

CERTIFIED MAIL

7004 2510 0001 8648 1236

PERMIT DENIAL

January 25, 2006

W. R. Meadows, Inc.
Attn: David Carey
300 Industrial Drive
Hampshire, Illinois 60140

Application No.: 74010054
I.D. No.: 089045AAL
Applicant's Designation:
Received: October 31, 2005
Operation of: Asphalt Saturation Line, Mixers & Storage Tanks
Location: 300 Industrial Drive, Hampshire

The Illinois EPA has reviewed your application for Operating Permit for the above referenced project. The permit application is DENIED because Sections 9 and 39.5 of the Illinois Environmental Protection Act (Act) and 35 Ill. Adm. Code 201.169 might be violated.

The following are specific reasons why the Act and the Rules and Regulations may not be met:

1. Information available to the Illinois EPA indicates that actual emission of volatile organic materials (VOM) from your facility exceeds Clean Air Act Permit Program (CAAPP) major source threshold level of 100 tons per year defined in Section 39.5(2)(c). Therefore, pursuant to 35 Ill. Adm. Code, Section 201.169(a)(1) a Lifetime Operating Permit cannot be issued. According to Section 39.5 of the Act, you must submit the Clean Air Act Permit Program (CAAPP) application.

The Illinois EPA will be pleased to review a reapplication for the permit that includes the necessary information and documentation to correct the deficiencies noted above. In accordance with 35 Ill. Adm. Code 201.157, this reapplication may incorporate by reference the data and information submitted to the Illinois EPA in the original permit application, provided that you certify that the data and information previously submitted remains true, correct and current. The reapplication will be considered filed on the date it is received by the Illinois EPA and will constitute a new permit application for purposes of Section 9(a) of the Act. Two copies of this information must be submitted and should reference the application and I. D. numbers assigned above.

If you have any questions on this, please call Valeriy Brodsky at 217/782-2113.

Donald E. Sutton

Donald E. Sutton, P.E.
Manager, Permit Section
Division of Air Pollution Control

DES:VJB:psj

cc: Region 1
Julie Armitage, Compliance and Enforcement Section

Exhibit 2

ILLINOIS POLLUTION CONTROL BOARD

March 2, 2006

W.R. MEADOWS, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 06-140
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	(90-Day Extension)
PROTECTION AGENCY,)	
)	
Respondent.)	

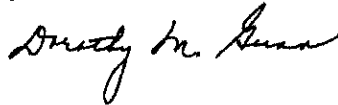
ORDER OF THE BOARD (by G.T. Girard):

On February 24, 2006, the parties timely filed a joint notice to extend the 35-day period within which W.R. Meadows, Inc. (W.R. Meadows) may appeal a January 30, 2006 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2004); 35 Ill. Adm. Code 105.206(c), 105.208(a), (c). The Agency denied renewal of the operating permit for certain existing equipment and processes at W.R. Meadows' facility at Hampshire, Kane County.

The Board extends the appeal period until April 29, 2006, as the parties request. *See* 415 ILCS 5/40(a)(1) (2004); 35 Ill. Adm. Code 105.406. If W.R. Meadows fails to file an appeal on or before that date, the Board will dismiss this case and close the docket.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 2, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board