

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

VAN ZELST LANDSCAPE COMPOST)
FACILITY,)

Petitioner,)

v.)

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)

Respondent.)

PCB 11-7
(Permit Appeal - Land)

AMENDED PETITION TO CONTEST PERMIT DENIAL

Petitioner Van Zelst Landscape Compost Facility ("Van Zelst"), by and through their attorney Larry M. Clark , respectively requests a hearing before this Board to contest the denial of a certain Permit to develop and operate a landscape waste compost facility in Lake County, Illinois. In support of this Petition, Van Zelst states as follows:

1. That this Amended Petition is filed pursuant to 415 ILCS 5/40(a)(1) and the Order of the Board dated September 2, 2010.
2. That Van Zelst filed an Application for Permit to develop and operate a landscape waste compost facility that was dated March 10, 2010 and received by the Illinois EPA on March 24, 2010.
3. That the Illinois EPA denied the landscape waste compost facility permit on August 20, 2010 and provided the specific reason for denial. A copy of that denial is attached hereto and marked as Exhibit A.

4. That Van Zelst filed a timely request with the Board requesting a 90 day extension for filing an Appeal with the Board, but said request failed to provide proof of simultaneous filing with the Illinois EPA as required. 35 Ill. Adm. Code 101.300(b), 105.206(c) and 105.208(a),(c).

5. That on September 2, 2010 the Board authorized the filing of this Amended Petition To Contest Permit Denial.

6. The July 22, 2010 denial by the Illinois EPA cited as the reason for denial that the proposed facility did not meet the required setback of an 1/8 mile from the nearest residence as required, pursuant to 39 IAC 830.203(a)(3).


7. That the proposed facility does in fact meet the required setback of 1/8 mile from the nearest residence, but does not meet a setback of 1/8 mile from the "property line" of a parcel that contains a residence.

8. That the Illinois EPA has inappropriately mis-applied the standard of 1/8 mile setback from the "property line" of a parcel that contains a residence as opposed to the "residence", as required by 35 IAC 830.203(a)(3).

WHEREFORE, Van Zelst respectfully requests that this Board a) set this matter for hearing; b) reverse the denial of the permit for the landscape waste compost facility; or c) remand the Permit Application to the Illinois EPA with directions to measure the appropriate setback as one being 1/8 mile from the nearest "residence" as opposed to 1/8 mile from the property line which contains the nearest residence.

Respectively Submitted,

VAN ZELST LANDSCAPE COMPOST FACILITY



LARRY M. CLARK

Larry M. Clark
Attorney for Petitioner
700 North Lake Street, Suite 200
Mundelein, IL 60060
847-949-9396



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 • (217) 782-2829
James R. Thompson Center, 100 West Randolph, Suite 11-300, Chicago, IL 60601 • (312) 814-6026

PAT QUINN, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217/524-3300

July 22, 2010

Certified Mail
7008 1830 0001 4713 3525

Van Zelst Landscape Compost Facility
39400 North Highway 41
Wadsworth, Illinois 60083

Re: 0978105010 – Lake County
Van Zelst Landscape Compost Facility
Log No. 2010-107
03T Compost
Permit Denial

Dear Mr. Van Zelst:

This will acknowledge receipt of your Application for Permit to develop and operate a landscape waste compost facility, dated March 10, 2010 and received by the Illinois EPA on March 24, 2010.

Your permit application to develop and operate a landscape waste compost facility is denied.

You have failed to provide proof that granting this permit would not result in violations of the Illinois Environmental Protection Act (Act). Section 39(a) of the Act [415 ILCS 5/39(a)] requires the Illinois EPA to provide the applicant with specific reasons for the denial of permit. The following reason(s) are given:

1. The proposed facility does not meet the required setback of an 1/8 of a mile from the nearest residence as required, pursuant to 35 IAC 830.203(a)(3).

Within 35 days after the date of mailing of the Illinois EPA's final decision, the applicant may petition for a hearing before the Illinois Pollution Control Board to contest the decision of the Illinois EPA, however, the 35-day period for petitioning for a hearing may be extended for a period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Illinois EPA within the 35-day initial appeal period.

Should you wish to reapply or have any questions regarding this application, please contact Derek Rompot at 217/524-3262.

Sincerely,

Stephen F. Nightingale, P.E.
Manager, Permit Section
Bureau of Land

SFN:DCR:mls/101622.doc

cc: Christopher Martell, P.E., CDM

EXHIBIT A

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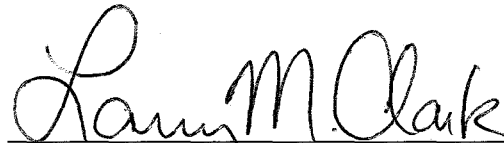
PCB 11-7
(Permit Appeal - Land)

NOTICE OF FILING

To: Douglas Scott, Director
1021 North Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276

Stephen F. Nightingale, P.E.
Manager, Permit Section
Bureau of Land,
Illinois EPA
1021 North Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276

Please take notice that on the 4th day of October, 2010 I have filed with the Office of the Clerk of the Pollution Control Board our Amended Petition To Contest Permit Denial on behalf of the Van Zelst Landscape Compost Facility, a copy of which is hereby served upon you.


Larry M. Clark, Attorney for
Van Zelst Landscape Compost Facility

Dated this 4th day of October, 2010


Larry M. Clark
Attorney At Law
700 North Lake Street, Suite 200
Mundelein, IL 60060
847-949-9396

CERTIFICATE OF SERVICE

I, Larry M. Clark, an attorney for the Respondent, hereby certify that I have served the attached Notice of Filing and Appearance on the following persons at the following address by U.S. Mail, postage prepaid.


Douglas Scott, Director
1021 N. Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276

Stephen F. Nightingale, P.E.
Manager, Permit Section
Bureau of Land,
Illinois EPA
1021 North Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276



Larry M. Clark, Attorney for Petitioner

SUBSCRIBED AND SWORN TO BEFORE ME
THIS 4th DAY OF OCTOBER, 2010



Notary Public

