

ILLINOIS POLLUTION CONTROL BOARD
June 25, 1987

BEAR HYBRID CORN COMPANY, INC.,)
)
 Petitioner,)
)
 v.) PCB 87-70
)
ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by B. Forcade):

On May 28, 1987, Bear Hybrid Corn Company, Inc. ("Bear") filed a petition for variance to operate four incinerators at its Decatur and Wapella facilities. By Order of June 25, 1987, the Board required more information on the proposed methods of compliance. On June 23, 1987, Bear filed an amended petition for variance, but that petition still fails to include sufficient information on compliance.

The intention to file a petition for site specific regulatory relief at some future date does not constitute a compliance plan for purposes of a presently filed petition for variance. Thus, Bear's intention to file a site specific regulatory petition in the future cannot be considered a compliance plan for this variance petition. The Board must look within the confines of the presently filed documents to determine how Bear is out of compliance with existing regulatory requirements, what operational modifications will be required to achieve full compliance with regulatory requirements, and when those operational modifications can be implemented. When the amended petition is reviewed in this context it is apparent that the Board has not been informed of the nature and degree of non-compliance, and has not been informed as to which operational modifications have been selected and whether those modifications will lead to full compliance.

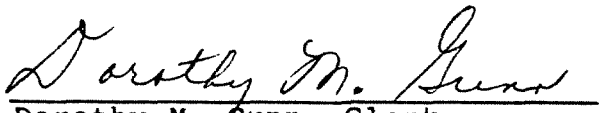
Bear specifically states that the extent of non-compliance will not be disclosed (unnumbered page, Paragraph 5 (E)(i)). This information must be provided. Bear also describes several potential options for regulatory compliance, including: (1) filing a future petition for site specific regulatory relief, (2) landfilling the material which is presently burned, (3) adding new incinerators to the present facility, and (4) modifications to the existing incineration equipment as described at paragraph 5 (F)(iv).

The compliance alternatives are not adequately described in that Bear provides no information on the cost or viability of landfilling, and does not indicate whether the process modifications described in paragraph 5 (F)(iv) will lead to full compliance. More importantly, the Board is not informed of which compliance option Bear intends to pursue. For these reasons, the Board finds the amended petition for variance is inadequate and Orders that a new amended petition be filed which addresses the inadequacy. Unless an amended petition is filed within 45 days, this matter will be subject to dismissal. Bear need not repeat the facts contained in the prior two petitions, only new information is required.

The Environmental Protection Agency is requested to inform the Board, not later than July 13, 1987, whether the relief sought by Bear might require an amendment to the State Implementation Plan, and whether a hearing is thus required.

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 20th day of June, 1987, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board