

ILLINOIS POLLUTION CONTROL BOARD

July 23, 2009

IN THE MATTER OF:)
)
PETITION OF WESTWOOD LANDS, INC.)
FOR AN ADJUSTED STANDARD FROM) AS 09-3
PORTIONS OF 35 ILL. ADM. CODE 807.104) (Adjusted Standard - Land)
AND 35 ILL. ADM. CODE 810.103 OR, IN)
THE ALTERNATIVE, A FINDING OF)
INAPPLICABILITY)

ORDER OF THE BOARD (by G.L. Blankenship):

On March 31, 2009, Westwood Lands, Inc. (Westwood) filed a petition for an adjusted standard (Pet.). Westwood seeks a determination that steelmaking slag fines used in its production process do not constitute “waste” and that its facility therefore does not require permits under the Board’s solid waste regulations. *See* 35 Ill. Adm. Code 807, 810. In the alternative, if Board does not agree that the slag fines are not a “waste,” Westwood seeks an adjusted standard from specified portions of Section 807.104 and 810.103 of the Board’s solid waste regulations. *See* 35 Ill. Adm. Code 807.104 (Definitions), 810.103 (Definitions). Westwood stated that it waives hearing on its petition. Pet. at 11; *see* 35 Ill. Adm. Code 104.406(j).

In an order dated May 21, 2009, the Board found that Westwood had met the notice requirements of the Environmental Protection Act and the Board’s procedural regulations. *See* 415 ILCS 5/28.1(d)(1) (2008); 35 Ill. Adm. Code 104.408, 104.410. The Board also denied Westwood’s motion for expedited review. In the same order, the Board found that Westwood had not provided all of the information required for an adjusted standard petition and directed Westwood to address specified information deficiencies with 30 days.

On June 22, 2009, Westwood timely filed an Amended Petition for Adjusted Standard (Am. Pet.). On July 14, 2009, Westwood filed proof of publication that notice of the amended petition had been published in the *Belleville News-Democrat* on July 8, 2009 (Notice). Westwood argues that, although notice was not required because the amended petition made no “substantive change to the requested relief in that it requests additional or alternative relief,” it opted to re-publish notice in the interest of public disclosure. Notice at 1; *see* 35 Ill. Adm. Code 104.418(a). The Board accepts the amended petition.

Finally, in its May 21, 2009 order, the Board noted that the Illinois Environmental Protection Agency (Agency) had not yet filed its recommendation. Section 104.416(a) of the Board’s procedural rules provides in pertinent part that, “[u]nless otherwise ordered by the hearing officer or the Board, the recommendation must be filed with the Board within 45 days after the filing of the petition or amended petition.” 35 Ill. Adm. Code 104.416(a). As Westwood filed the amended petition on June 22, 2009, the Board directs the Agency to file its

recommendation with 45 days of that date, on or before Thursday, August 6, 2009. *See* 35 Ill. Adm. Code 101.300(a). Westwood's response to the Agency's recommendation is due "within 14 days after the date of service of the recommendation." 35 Ill. Adm. Code 104.416(d).

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 23, 2009, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board