

ILLINOIS POLLUTION CONTROL BOARD

August 8, 1974

HILLVIEW FARMS, INC.)
 Petitioner,)
)
 v.) PCB 74-269
)
ENVIRONMENTAL PROTECTION AGENCY,)
 Respondent.)

ORDER OF THE BOARD (by Dr. Odell)

On July 15, 1974, Hillview Farms, Inc., pursuant to Section 40 of the Environmental Protection Act (Act) petitioned the Pollution Control Board (Board) for review of the Environmental Protection Agency's (Agency) denial of an operating permit.

On July 30, 1974, the Agency moved that the permit application of Petitioner, now a part of the record in EPA v. May et al., PCB 73-109, be made a part of this proceeding. The Agency also moved that the Petition for Review of Hillview Farms, Inc. be dismissed for lack of specificity or that Petitioner amend his Petition to give Respondent sufficient notice to prepare its defense.

We grant Respondent's Motion to Incorporate Permit Application and order Petitioner to file an amended Petition For Permit Review. Petitioner's permit application, presently with the record of EPA v. May et al., PCB 73-109, is incorporated into this cause to the extent that it can be obtained from Appellate Court. Also, Petitioner is ordered to amend his Petition For Permit Review and plead facts sufficiently definite for Respondent to prepare its defense. While we have no inclination to tell Petitioner how to plead under Illinois law, it should be clear that Respondent is entitled to know what particular factual or legal issues regarding the permit denial are to be raised at the hearing. For example, concerning the letter of permit denial of June 24, 1974, what factual conclusion of the Agency does the Petitioner deny or intend to refute.

If Petitioner admits all of Respondent's conclusions of fact, it must indicate the questions of law it will submit to the hearing officer in its brief at the hearing. Respondent has 10 days after the hearing to respond to Petitioner's arguments.

Hillview Farms, Inc. shall amend its petition within 35 days of the adoption of this Order or be dismissed for failure to state a cause of action. Petitioner's right to amend his Petition For Permit Review is conditional on his waiving for an additional 90 days the requirements of final Board action under Section 40 of the Act.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 8th day of August, 1974, by a vote of 4 to 0.


Christan L. Moffett