

ILLINOIS POLLUTION CONTROL BOARD
September 19, 2002

PERFETTI VAN MELLE USA, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 02-215
)	(Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.A. Manning):

On June 20, 2002, the Board, at the parties' request, extended until September 11, 2002, the time period within which Perfetti Van Melle USA, Inc. (Van Melle) may appeal a May 7, 2002 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2000) *as amended by* P.A. 92-0574, eff. June 26, 2002; 35 Ill. Adm. Code 105.208(a). On September 12, 2002, Van Melle filed a petition asking the Board to review the Agency's determination.

The Agency denied Van Melle's application for an air permit regarding its candy manufacturing facility at 151 North Hastings Lane in Buffalo Grove, Lake County. Van Melle appeals on numerous grounds, primarily arguing that the Agency's denial lacked sufficient information for Van Melle to determine the bases for the Agency's determination, and that the Agency sought to require information not mandated by statute or rule. Van Melle's petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

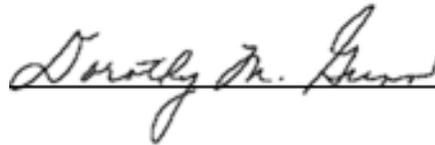
Van Melle has the burden of proof. 415 ILCS 5/40(a)(1) (2000) *as amended by* P.A. 92-0574, eff. June 26, 2002; *see also* 35 Ill. Adm. Code 105.112(a). Hearings "will be based exclusively on the record before the Agency at the time the permit or decision was issued." 35 Ill. Adm. Code 105.214(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2000) *as amended by* P.A. 92-0574, eff. June 26, 2002), which only Van Melle may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Van Melle "may deem the permit issued." 415 ILCS 5/40(a)(2) (2000). Currently, the decision deadline is January 10, 2003 (the 120th day after September 12, 2002). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for January 9, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by October 12, 2002. 35 Ill. Adm. Code 105.212(a). If the Agency wishes to seek additional time to file the record, it must file a request for extension before the

date on which the record is due to be filed. 35 Ill. Adm. Code 105.116. The record must comply with the content requirements of 35 Ill. Adm. Code 105.212(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 19, 2002, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board