

JUL 09 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
PETITION OF PRAIRIE MATERIAL) AS-01-10
SALES, INC. FOR AN ADJUSTED) (Adjusted Standard - Land)
STANDARD FROM: 35 ILL. ADM. CODE)
PARTS 811 & 814)

NOTICE OF FILING

PLEASE TAKE NOTICE that today we filed with the Clerk of the Illinois Pollution Control Board Petitioner's Motion to Voluntarily Withdraw its Petition for an Adjusted Standard, Without Prejudice.

Respectfully submitted,



Michael F. Dolan
Jane K. Murphy
JONES DAY
77 W. Wacker
Suite 3500
Chicago, Illinois 60601-1692
(312) 782-3939

Dated: July 8, 2004

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IN THE MATTER OF:)
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**PETITIONER'S MOTION TO VOLUNTARILY WITHDRAW ITS PETITION
FOR AN ADJUSTED STANDARD, WITHOUT PREJUDICE**

NOW COMES Prairie Material Sales, Inc. ("Petitioner"), by and through its attorneys, and moves to withdraw its Petition for an Adjusted Standard. In support of its Motion, Petitioner states:

1. On September 27, 2000, the State of Illinois filed a Complaint against Petitioner in the Circuit Court for the 15th Judicial Circuit, Lee County, Illinois, Chancery Division (Case No. 00-CH-68) seeking civil penalties and injunctive relief (the "Litigation").
2. On May 21, 2001, Petitioner filed a Petition for an Adjusted Standard From 35 Ill. Admin. Code Parts 811 and 814.
3. Petitioner believes that due to the passage of time, amendments and proposed amendments to the Complaint in the Litigation and related discussions with Plaintiff's Counsel in the Litigation, the Petition for an Adjusted Standard is either stale or premature, and thus unhelpful to the Board and the Parties in resolving the issues raised therein.
4. The outcome of the Litigation will clarify Petitioner's rights and responsibilities under 35 Ill. Admin. Code Parts 811 and 814 and serve to inform both the Petitioner and the State what, if any, standards under 35 Ill. Admin. Code Parts 811 and 814 must be adjusted by the Board.

5. Counsel for Petitioner conferred with Paul Jagiello, counsel for the Illinois Environmental Protection Agency, on June 16, 2004. Mr. Jagiello stated at that time that he had no objection to the withdrawal of the Petition, without prejudice.

6. Petitioner seeks to withdraw the Petition without prejudice, and reserves the right to file an amended Petition for an Adjusted Standard at a later time.

WHEREFORE, Prairie respectfully requests that the Hearing Officer enter an order granting Petitioner's Motion to Withdraw its Petition for an Adjusted Standard, Without Prejudice.

Respectfully submitted,



Michael F. Dolan
Jane K. Murphy
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Suite 3500
Chicago, Illinois 60601-1692
(312) 782-3939

Dated: July 8, 2004

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing Notice of Filing and Motion to Voluntarily Withdraw Petition Without Prejudice were mailed, first class, to each of the following on July 8, 2004:

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
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6 Sun Pointe Court
Bloomington, IN 61704

Jerry McNair
854 White Oaks Drive
Dixon, Illinois 61021

It is hereby certified that a true copy of the foregoing was hand delivered to the following on July 8, 2004:

Dorothy M. Gunn
Illinois Pollution Control Board
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