

ILLINOIS POLLUTION CONTROL BOARD
September 18, 2014

CEDAR CONCEPTS CORPORATION,)
)
Petitioner,)
)
v.) PCB 15-58
) (CAAPP Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by J.D. O’Leary):

On August 12, 2014, Cedar Concepts Corporation (Cedar Concepts) timely filed a petition (Pet.) asking the Board to review a July 8, 2014 permit determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2012); 35 Ill. Adm. Code 101.300(b), 105.206. The determination concerns Cedar Concepts’ chemical manufacturing plant located at 4342 South Wolcott Avenue, Chicago, Cook County. Cedar Concepts also requested that the Board stay the effectiveness of the denial of its Clean Air Act Permit Program (CAAPP) permit. On August 21, 2014, the Board accepted the petition for hearing but reserved ruling on Cedar Concepts’ motion for stay. For the reasons below, the Board today grants Cedar Concepts’ unopposed request for stay.

REQUEST TO STAY EFFECTIVENESS OF PERMIT DENIAL

Cedar Concepts requests that the Board stay the effectiveness of the denial of its CAAPP permit application. Pet. at 2. Cedar Concepts alleges that the Agency denied its CAAP permit application due to Cedar Concepts’ failure to demonstrate compliance with the National Emissions Standards for Hazardous Air Pollutants for Miscellaneous Organic Chemical Manufacturers. Pet. at 1, citing 40 C.F.R. Part 63, Subpart FFFF. Cedar Concepts also alleges that the Agency denied its application because it had determined that maximum actual emissions for the facility exceeded major source levels pursuant to the Environmental Protection Act (415 ILCS 5 (2012) (Act). Pet. at 2.

Cedar Concepts’ petition argues that the Agency’s determination is not supported by the record, is beyond the Agency’s authority, is arbitrary and capricious, and is an abuse of the Agency’s discretion. Pet. at 2. Cedar Concepts therefore requests a stay of the effectiveness of the denial of the CAAPP permit until final action is taken by the Board pursuant to Section 40.2 of the Act. Pet. at 2; *see* 415 ILCS 5/40.2 (2012).

DISCUSSION

On August 21, 2014, the Board accepted Cedar Concept's petition for hearing but reserved ruling on the request for a stay. *See* 35 Ill. Adm. Code 101.500(d). The Agency has not responded to Cedar Concepts' request. The Agency is therefore deemed to have waived any objection to granting the motion. 35 Ill. Adm. Code 101.500(d).

Section 40.2(a) of the Act makes it clear that CAAPP permit denials may be stayed during the pendency of the review process at the request of the applicant. 415 ILCS 5/40.2(f) (2012). Having reviewed the request and in the absence of any objection by the Agency, the Board grants Cedar Concepts' unopposed request for stay of the effectiveness of the CAAPP permit denial. This stay will remain in effect until the Board takes final action in this matter or the Board orders otherwise.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 18, 2014, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board