

ILLINOIS POLLUTION CONTROL BOARD

August 6, 2015

WABASH VALLEY POWER)
ASSOCIATION,)
)
Petitioner,)
) PCB 16-011
v.) (CAAPP Permit Appeal - Air)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by D. Glosser):

On July 15, 2015, Wabash Valley Power Association (petitioner) timely filed a petition asking the Board to review a June 12, 2015, determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40.2(a) (2014); 35 Ill. Adm. Code 101.300(b), 105.302(e). The Agency's determination concerns petitioner's landfill gas to energy facility located at 9560 Heritage Road in Clinton, DeWitt County. On July 23, 2015, the Board accepted petitioner's petition for hearing, but reserved ruling on petitioner's request for stay. For the reasons below, the Board grants petitioner's request for stay.

Petitioner requests that the Board stay the effectiveness with regard to certain contested conditions contained in the Clean Air Act Permit Program (CAAPP) permit issued on June 12, 2015, pursuant to Section 39.5 of the Act (415 ILCS 5/39.5). Pet at 1. Petitioner argues that the CAAP permit conditions are arbitrary, capricious, and unreasonable and imposition of the conditions will result in irreparable harm to petitioner. *Id.* at 2, 6. Petitioner therefore requests a stay of certain contested conditions of the CAAP permit during the pendency of the review process until final action is taken by the Board pursuant to Section 40.2 of the Act. *See* 415 ILCS 5/40.2 (2014).

On July 23, 2015, the Board accepted petitioner'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 petitioner's 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) (2014). Having reviewed the request and in the absence of any objection by the Agency, the Board grants petitioner's unopposed request for stay of the effectiveness with regard to certain contested conditions within the CAAPP permit set forth at Section 39.5 of the Act (415 ILCS 5/39.5). 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 August 6, 2015, 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 stroke at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board