

ILLINOIS POLLUTION CONTROL BOARD  
January 10, 1980

AMAX COAL COMPANY, Division of )  
AMAX, Inc., )  
 )  
Petitioner, )  
 )  
v. ) PCB 79-92, -93, -94, -97  
 )  
ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
Respondent. )

ORDER OF THE BOARD (by Dr. Satchell):

On December 5, 1979 Amax Coal Company (Amax) filed motions for stay of permit conditions in connection with four NPDES permit appeals. On December 13, 1979 the Environmental Protection Agency (Agency) filed a response arguing that the stay should be denied because the conditions for which stay is sought are mandatory conditions which the Agency is obliged by law to incorporate into the permit. Since the Amax motions do not contend otherwise, the motions to stay are denied. Amax's argument that §12(f) of the Environmental Protection Act creates an absolute right to stay of permit conditions is rejected. The final paragraph of §12(f) creates a defense to a complaint alleging discharge without a permit where timely application has been made. It does not, however, require stay of permit conditions after the permit is issued. The Agency's motions to dismiss filed December 31, 1979 are also denied.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 10<sup>th</sup> day of January, 1980 by a vote of 4-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board