

ILLINOIS POLLUTION CONTROL BOARD

October 16, 2003

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| SAINT-GOBAIN CONTAINERS, INC., a |) | |
| Delaware corporation, |) | |
| |) | |
| Petitioner, |) | |
| |) | PCB 04-47 |
| v. |) | (CAAPP Permit Appeal – Air) |
| |) | |
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Respondent. |) | |

ORDER OF THE BOARD (by N.J. Melas):

On October 3, 2003, Saint-Gobain Containers, Inc. (Saint-Gobain) timely filed a petition asking the Board to review an August 26, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40.2(a) (2002); 35 Ill. Adm. Code 105.302(e). The Agency granted a Clean Air Act Permit Program (CAAPP) permit application of Saint-Gobain under Section 39.5 of the Environmental Protection Act (Act) (415 ILCS 5/39.5 (2002)). The CAAPP permit (No. 95090132) concerns Saint-Gobain's glass container manufacturing facility in Lincoln, Logan County.

Accompanying the petition, Saint-Gobain filed a motion to stay the effectiveness of the CAAPP permit. This order will address the petition but reserve ruling on the motion to stay until the full response period has expired. *See* 35 Ill. Adm. Code 101.500(d) (2002).

Section 40.2(a) of the Act (415 ILCS 5/40.2(a) (2002)) allows several persons to appeal Agency CAAPP permit determinations: permit applicants; persons who participated in the Agency's public comment process under Section 39.5(8) of the Act (415 ILCS 5/39.5(8) (2002)); and persons who could obtain judicial review under Section 41(a) of the Act (415 ILCS 5/41(a) (2002)). 415 ILCS 5/40.2(a) (2002); *see also* 35 Ill. Adm. Code 105.302(c). Saint-Gobain is the CAAPP permit applicant.

Saint-Gobain appeals on the grounds that the Agency-issued CAAPP permit does not reflect the current applicable requirements or the current operations at the facility. Specifically, Saint-Gobain has concerns with Section 1.0 and Conditions 5.2.7; 7.1.6; 7.1.12; 7.1.13 and 7.5.12 of the final CAAPP permit. Saint-Gobain argues the Agency has exceeded its authority and imposed conditions that violate Section 39.5 of the Act. 415 ILCS 5/39.5 (2002). The Board accepts the petition for hearing.

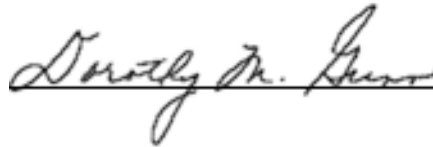
Saint-Gobain has the burden of proof. 415 ILCS 5/40.2(a) (2002); *see also* 35 Ill. Adm. Code 105.112(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40.2(c) (2002)), which only Saint-Gobain may extend by

waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, “the permit shall not be deemed issued; rather, the petitioner shall be entitled to an Appellate Court order pursuant to Section 41(d) of this Act [415 ILCS 5/41(d) (2002)].” 415 ILCS 5/40.2(c) (2002). Currently, the decision deadline is January 31, 2004 (the 120th day after October 3, 2003). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for January 22, 2004.

Unless the Board or the hearing officer orders otherwise, the Agency must file an answer, including the entire record of its determination within 30 days after it is served with the petition. 35 Ill. Adm. Code 105.302(f). 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 105.302(f).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 16, 2003, 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