

ILLINOIS POLLUTION CONTROL BOARD

April 15, 2004

OASIS INDUSTRIES, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 04-116
	)	(Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by J.P. Novak):

On January 22, 2004, the Board, at the parties' request, extended until April 5, 2004 the time period within which Oasis Industries, Inc. (Oasis Industries) may appeal a December 1, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.208(a). On April 6, 2004, Oasis Industries filed a petition asking the Board to review the Agency's determination. Because the postmark date of the petition is within the extended time for filing, the petition was timely filed. 35 Ill. Adm. Code 101.300(b)(2), 105.404. The Agency approved the application for a Clean Air Act Permit Program permit, with conditions, regarding Oasis Industries' polyester resin product manufacturing facility at 1600 Mountain Street, Aurora, Kane County.

Oasis Industries appeals on the grounds that certain permit conditions are not necessary to accomplish the purposes of the Environmental Protection Act (Act) and Board regulations, they are arbitrary and capricious, and they are beyond the Agency's authority or render certain permit sections ambiguous or internally inconsistent. Oasis Industries' petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

Oasis Industries has the burden of proof. 415 ILCS 5/40(a)(1) (2002); *see also* 35 Ill. Adm. Code 105.112(a). Hearings "will be based exclusively on the record before the Agency at the time the permit or decision was issued." 35 Ill. Adm. Code 105.214(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2002)), which only Oasis Industries may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Oasis Industries "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 August 4, 2004 (the 120th day after April 6, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for July 22, 2004.

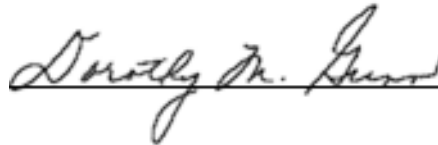
Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by May 6, 2004, which is 30 days after Oasis Industries filed the petition. 35 Ill. Adm. Code 105.212(a). If the Agency wishes to seek additional time to file the

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 105.212(b).

Oasis Industries included at the end of its petition a request that the Board stay the effectiveness of various conditions of the permit until the Board has rendered its final decision in this matter. (Pet. at 5). The Agency has not yet responded to this request. *See* 35 Ill. Adm. Code 101.500(d) (2002). The Board reserves ruling on the issues relating to the requested stay pending the response of the Agency.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 15, 2004, by a vote of 4-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board