

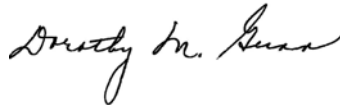


that “[a]pplication for a stay of a decision or order of an agency pending direct review in the Appellate Court shall ordinarily be made in the first instance to the agency.” 172 Ill. 2d R. 335(g).

The decision to grant or deny a motion for stay is “vested in the sound discretion of the Board.” See People v. State Oil Co., PCB 97-103 (May 15, 2003) (granting motion for stay after petition for review filed with Appellate Court), *aff’d sub nom* State Oil Co. v. PCB, 2004 Ill. App. Lexis 968 (2d Dist., Aug. 18, 2004). The Board has been reluctant to stay its orders when a stay may result in harm to the public or the environment. See, e.g., Panhandle Eastern Pipe Line Co. v. IEPA, PCB 98-102 (July 8, 1999) (denying motion for stay where movant sought to delay meeting requirements designed to prevent significant deterioration in air quality), *aff’d sub nom* Panhandle Eastern Pipe Line Co. v. PCB and IEPA, 314 Ill. App. 3d 296, 734 N.E.2d 18 (4th Dist. 2000). The Board has granted stays of its orders with respect to the payment of penalties. See, e.g., IEPA v. Pielet Bros. Trading, Inc., PCB 80-185 (Feb. 4, 1982) (granting motion for stay of order’s provision requiring penalty payment, but denying motion for stay of order’s provision requiring respondent to cease and desist from violations), *aff’d sub nom* Pielet Bros. Trading, Inc. v. PCB, 110 Ill. App. 3d 752, 442 N.E.2d 1374 (5th Dist. 1982). Consistent with this precedent and Illinois Supreme Court Rule 335(g), the Board grants Prior’s motion for stay.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 16, 2004, by a vote of 5-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board