

ILLINOIS POLLUTION CONTROL BOARD
October 21, 2010

MIDWESTERN REGIONAL MEDICAL CENTER, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 11-15
)	(Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by G.T. Girard):

On September 23, 2010, Midwestern Regional Medical Center, Inc. (MRMC) timely filed a petition (Pet.) asking the Board to review an August 18, 2010 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2008); 35 Ill. Adm. Code 101.300(a), 101.300 (b)(2), 105.206. In the determination, which concerns MRMC’s facility located at 2520 Elisha Avenue in Zion, Lake County, the Agency issued a lifetime operating permit for an emergency generator, subject to conditions. MRMC appeals on the grounds that special conditions 8 and 13 of the permit are erroneous, unnecessary, and unjustified. Pet. at 2. On October 7, 2010, the Board accepted the permit appeal for hearing, but reserved ruling on MRMC’s motion for stay. Below, the Board rules on the motion.

For special condition 8, MRMC states that “[t]he emissions limits should be recalculated using the correct emission factors.” Pet. at 2. For special condition 13, MRMC maintains that “[t]he correct and applicable [emission] factors should be listed and the emission limits should be recalculated.” *Id.* In its motion, MRMC asks the Board to stay the effectiveness of special conditions 8 and 13 “in the particulars” described in the petition. *Id.* MRMC asserts that a stay “is necessary in order to avert irreparable harm to Petitioner” and “will not harm the public or the environment.” *Id.*

The Board reserved ruling on MRMC’s motion to allow the Agency’s 14-day response time to run. *See* 35 Ill. Adm. Code 101.500(d). The 14 days have expired without any response filed by the Agency. Accordingly, the Agency waives any objection to the Board granting MRMC’s motion for stay. *Id.* In Community Landfill Co. and City of Morris v. IEPA, PCB 01-48, 01-49 (consol.), slip op. at 4 (Oct. 19, 2000), the Board found that it “has the authority to grant discretionary stays from permit conditions.” The Board noted that it “has previously granted or denied discretionary stays in permit appeals, both when the Agency did and did not consent to such stays.” *Id.* (citations omitted). The Board elaborated that the “permit appeal system would be rendered meaningless in many cases, if the Board did not have the authority to stay permit conditions.” *Id.*

The Board grants MRMC's unopposed motion for stay. The stay remains in effect until the Board takes final action on the permit appeal or until the Board orders otherwise.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 21, 2010, 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 Therriault, Assistant Clerk
Illinois Pollution Control Board