

ILLINOIS POLLUTION CONTROL BOARD  
November 20, 2014

AMEREN MISSOURI and RACCOON )  
CREEK ENERGY CENTER, )  
 )  
Petitioner, )  
 )  
v. ) PCB 15-88  
 ) (CAAPP Permit Appeal - Air)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

ORDER OF THE BOARD (by D. Glosser):

On October 30, 2014, Ameren Missouri and Raccoon Creek Energy Center (petitioners) timely filed a petition asking the Board to review a September 25, 2014 determination of the Illinois Environmental Protection Agency (Agency) along with a request for stay. *See* 415 ILCS 5/40.2(a) (2012); 35 Ill. Adm. Code 101.300(b), 105.302(e). The Agency's determination concerns petitioners' energy center at 676 Cypress Drive, Flora, Clay County. On November 6, 2014, the Board accepted petitioners' petition for hearing, but reserved ruling on petitioners' request for stay. For the reasons stated below the Board grants petitioners' request for stay.

Petitioners request that the Board stay the effectiveness of Conditions 4.0 and 7.2 as a stay is necessary to prevent irreparable harm to petitioners and to protect its right to meaningfully appeal permit conditions. Pet. at 6. Petitioners' petition argues that the Agency's determination was unauthorized by law, unreasonable, arbitrary and capricious. Pet. at 7. Petitioners request a stay of Conditions 4.0 and 7.2 until final action is taken by the Board pursuant to Section 40.2 of the Act. Pet. at 8; *see* 415 ILCS 5/40.2 (2012).

On November 6, 2014, the Board accepted petitioners' petition for hearing but reserved ruling on the request for a stay. *See* 35 Ill. Adm. Code 101.500(d). The Agency has not responded to petitioners' request. The Agency is therefore deemed to have waived any objection to granting the motion. 35 Ill. Adm. Code 101.500(d).

Section 40.2(a) of the Act makes it clear that CAAPP permit denials may be stayed during the pendency of the review process at the request of the applicant. 415 ILCS 5/40.2(f) (2012). Having reviewed the request and in the absence of any objection by the Agency, the Board grants petitioners' request to stay Conditions 4.0 and 7.2. This stay will remain in effect until the Board takes final action in this matter or the Board orders otherwise.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 20, 2014, by a vote of 4-0.

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.

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John T. Therriault, Clerk  
Illinois Pollution Control Board