

ILLINOIS POLLUTION CONTROL BOARD
April 15, 1982

DONALD J. HAMMAN,)
)
) Petitioner,)
)
) v.) PCB 82-15
)
 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

ORDER OF THE BOARD (by J. Anderson):

This appeal of permit conditions filed February 12, 1982, involves a permit issued by the Agency pursuant to the Board's Order in Hamman's successful permit denial appeal Hamman v. IEPA, PCB 80-153 (November 19, 1981). The Board's Order has been appealed in Mathers et al. v. IPCB, No. 81-740, 741 (consolidated) (Ill.App. 3rd Dist). On February 16, 1982 the Court entered a stay in the consolidated appellate cases, providing in pertinent part that

"the force and effect of the judgment in... PCB 80-153 ... has been stayed pending appeal and the enforcement thereof is hereby suspended, until further order of this court."

Being unaware of the issuance of this stay, the Board accepted the PCB 82-15 appeal of permit conditions at its February 17, 1982 meeting.

On March 29, 1982 Raymond Greenberg filed a "special limited appearance" and requested the setting of a hearing, both for the purpose of challenging the Board's jurisdiction in this matter. No response thereto has been received. As Greenberg is not a party to this permit appeal action, the filing is improper, and will be disregarded by the Board.

The Board views the February 16, 1982 stay 1) as suspending the effectiveness of the permit issued pursuant to its November 19, 1981 Order, and 2) staying administrative action concerning the permit until such time as the stay is lifted or clarified. (The Board notes its receipt on April 8, 1982 of a "Motion For Clarification or to Lift Stay" made by Hamman to the Appellate Court.)

Accordingly, the hearing presently scheduled for April 23, 1982 is cancelled. Pending issuance of an Appellate Court Order either modifying or lifting the stay, or otherwise determining the status of this permit and the Board Order causing its issuance, the running of the 90 day decision period is stayed as of February 16, 1982 leaving 86 days left to run.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 15th day of April, 1982 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board