

ILLINOIS POLLUTION CONTROL BOARD
October 2, 1980

BORG-WARNER CORPORATION,)
)
 Petitioner,)
)
 v.) PCB 80-116
)
 ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by I. Goodman):

The parties herein have requested that the Board clarify the status of this case with respect to Board ordered stays of permit conditions and hearings.

Petitioner is now in the Circuit Court challenging the initial issuance of the permit in question. They are also before the Board challenging certain conditions within the questioned permit. The problem the Board faces is whether to go forward with the permit appeal in the face of the possible decision by a circuit court that the permit did not indeed issue. At the present time there exists a Board Order staying the challenged permit conditions and hearing until November 7, 1980. The Board arrived at that date by merely allowing 120 days for a Circuit Court decision in the appealed case. Terming the Circuit Court case a permit appeal in one of the Board orders has apparently caused some confusion.

The Board does not favor staying action in a case before it due primarily to the possibility of continuing environmental harm. We therefore generally issue limited stays so that we may review the situation periodically. It appears that that policy will not be effective in this matter. In this case the Board will, on its own motion, stay these proceedings until such time as the Circuit Court of LaSalle County has ruled on plaintiff's complaint filed with that court on June 6, 1980. The Board takes this action reluctantly but acknowledges that the case before the Board may become moot. Weighing heavily in our decision is the fact that petitioner is presently operating under an existing permit issued by the United States Environmental Protection Agency which presumably offers protection from harm to the environment. In addition petitioner has filed an unconditional waiver before the Board. All proceedings in this matter are hereby stayed until such time as the Circuit Court of LaSalle County, Illinois issues a decision in Borg-Warner Corporation v. Mauzy, et al., No. 80-MR-51 (Circuit Court, LaSalle County, Illinois).

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 2nd day of October, 1980 by a vote of 5-0.

Christan L. Moffett

Christan L. Moffett, Clerk
Illinois Pollution Control Board