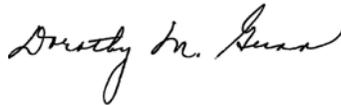


According to Board precedent, contends Citgo, it is not necessary for the Board to determine that all four factors exist to grant a discretionary stay. Mot. at 2; *citing* Bridgestone/Firestone Off Road Tire Co. v. IEPA, PCB 02-31 (Nov. 1, 2001). Citgo argues that a stay is necessary in this proceeding to protect Citgo's right to appeal and prevent the applicability of new permit conditions before Citgo has the opportunity to exercise its right to appeal. Mot. at 2. Further, Citgo asserts it has no adequate remedy at law other than this permit appeal before the Board. The requested stay of special conditions 17, 18, and 19, argues Citgo, would not result in any harm to the Agency, the public, or the environment. *Id.* Finally, Citgo contends it is likely to succeed on the merits of the petition because the new conditions do not represent "'applicable requirements'" under Illinois law. *Id.*

Pursuant to the Illinois Administrative Procedure Act (APA) (5 ILCS 100/1-1 *et seq.* (2004)), and provided Citgo's assertions and the Agency's lack of response, the Board grants Citgo's motion. Under the APA, the conditions Citgo contests are automatically stayed. 5 ILCS 100/10-65(b) (2004). Borg-Warner Corp. v. Mauzy, 100 Ill. App. 3d 862, 427 N.E.2d 415 (3rd Dist. 1981). Accordingly, the Board grants the motion to stay the effectiveness of special conditions 17, 18, and 19 of Citgo's reissued NPDES Permit No. IL0001589.

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 21, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board