

ILLINOIS POLLUTION CONTROL BOARD
February 6, 2003

ABITEC CORPORATION,)	
)	
Petitioner,)	
)	
v.)	PCB 03-95
)	(Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

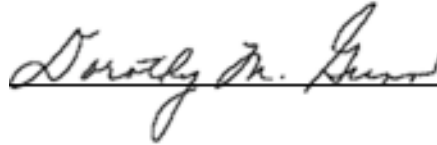
On December 31, 2002, Abitec Corporation timely filed a petition asking the Board to review a November 26, 2002 determination of the Illinois Environmental Protection Agency (Agency) conditionally approving Abitec's application for a Clean Air Act Permit Program (CAAPP) permit. The Agency imposed certain conditions on the CAAPP Permit for Abitec's food processing plant in Paris, Edgar County. On January 9, 2003, the Board accepted this matter for hearing but reserved ruling on a request to stay effectiveness of the CAAPP permit. To date, the Agency has not filed a response to the request.

The Board has recognized that Illinois law provides standards to help determine whether stays are appropriate. Community Landfill Company and City of Morris v. IEPA, PCB 01-48, 49 (Oct. 19, 2000), citing Motor Oils Refining Company, Inc. v. IEPA, PCB 89-116 (Aug. 31, 1989). Those standards are: (1) a certain and clearly ascertainable right needs protection; (2) irreparable injury will occur without the injunction; (3) no adequate remedy at law exists; and (4) there is a probability of success on the merits. Motor Oils, PCB 89-116, slip op. at 1-2 (Aug. 31, 1989), citing Junkunc v. S.J. Advanced Technology & Mfg., 149 Ill. App. 3d 114, 498 N.E. 2d 1179 (1st Dist. 1986). The Board has held that it is not required to specifically address each of these factors in making a stay determination. Bridgestone/Firestone Off-Road Tire Company v. IEPA, PCB 02-31 (Nov. 1, 2001).

In this instance, the Board denies the request to stay the effectiveness of the permit. The request for stay was not accompanied by any explanation or reasons for the request. *See* Pet. at 25. Thus, the Board is unable to determine if a stay is appropriate at this time. The petitioner may file a motion for stay with appropriate supporting information pursuant to 35 Ill. Adm. Code 101.514.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 6, 2003, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board