

ILLINOIS POLLUTION CONTROL BOARD
July 26, 1973

REPUBLIC STEEL CORPORATION)
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 v.)
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 ENVIRONMENTAL PROTECTION AGENCY)
)
 INTERNATIONAL HARVESTER COMPANY)
)
 v.) #R71-23
)
 ENVIRONMENTAL PROTECTION AGENCY)
)
 CLARK OIL & REFINING CORPORATION)
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 v.)
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 ENVIRONMENTAL PROTECTION AGENCY)
)
 UNITED STATES STEEL CORPORATION)
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 v.)
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 ENVIRONMENTAL PROTECTION AGENCY)
)
 INTERLAKE, INC.)
)
 v.)
)
 ENVIRONMENTAL PROTECTION AGENCY)

ORDER OF THE BOARD (BY SAMUEL T. LAWTON, JR.):

All of the above-captioned corporations have filed appeals in the Appellate Court of Illinois, First District, seeking administrative review of the recently adopted Air Pollution Control Regulations of the Pollution Control Board, effective April 14, 1972 and originally docketed before this Board as #R71-23.

Each of the above corporations has filed a petition before this Board for stay of certain portions of the Regulations as applicable to each corporation, respectively, to which the Agency has filed responses in opposition thereto.

While it does not appear that the Board entered a formal order of consolidation with respect to the hearings on the stay proceedings, the Attorney General moved for oral argument on the petitions and oral argument was initiated on September 12, 1972. Thereafter,

consideration of all stay proceedings above specified was referred to a Hearing Officer designated by the Board, who conducted a series of hearings on the foregoing petitions. Subsequent thereto, International Harvester Company and Republic Steel Corporation filed petitions for variance which are presently pending, the disposition of which could moot the stay petitions. Efforts at resolution of the various issues in dispute were made with respect to the contentions of Clark Oil & Refining Corporation, United States Steel Corporation and International Harvester Company, but appear to have been unsuccessful.

We have recently received a motion for severance and decision filed by the Attorney General with respect to the last three named corporations. We sever from the present order the stay petitions filed by International Harvester Company and Republic Steel Corporation and shall enter such further orders as appropriate respecting these corporations, following dispositions of their variance proceedings.

We deny the stay of Rules 103 and 104 as requested by Clark Oil & Refining Corporation, United States Steel Corporation and Interlake, Inc. These sections, in substance, require the application for and obtaining of permits by specified dates and the submission as conditions thereto of compliance programs and project completion schedules by specified dates. The contentions raised by Clark, United States Steel and Interlake relate essentially to the cost, difficulties and inconvenience to which they would be subjected in complying with the Regulations aforesaid. We do not believe a stay is the proper method by which such relief might be achieved. We note that the companies have not asked for stay of the entire Regulation but only those relating to permit applications. We further note that the companies' principal objections are not to the specific regulations adopted by the Board, but rather the manner in which they have been implemented by the Environmental Protection Agency. We believe the Environmental Protection Act has provided the proper means for relief in such circumstances if, in fact, petitioners' contentions are meritorious. If the companies believe that what the Agency is seeking is beyond the legal authority vested in it by the Regulations, a permit denial appeal proceeding before this Board would be the appropriate route to pursue. If the companies, on the other hand, are not contending an absence of legality in the Agency's procedures, but rather contend that unreasonable hardship would result, the variance procedure is available.

In sum, we are not persuaded on the record before us that a stay of our Regulations is warranted, and, accordingly, the petitions for stay of Regulations 103 and 104 filed by Clark Oil & Refining Corporation, United States Steel Corporation and Interlake, Inc. are denied.

IT IS SO ORDERED.

I, Christan Moffett, Clerk of the Pollution Control Board, certify that the above Order was adopted on the 26th day of July, 1973, by a vote of 4 to 0.

Christan Moffett