

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PQ LLC,)	
Petitioner,)	
)	
v.)	PCB 23-15
)	(Permit Appeal – Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that on this 29th day of August, 2022, we have filed with the Office of the Clerk of the Illinois Pollution Control Board, the attached Motion to Stay, which is hereby served upon the following persons:

Don Brown, Clerk
Illinois Pollution Control Board
60 E. Van Buren Street, Suite 630
Chicago, IL 60605
Don.Brown@illinois.gov

Bradley Halloran, Hearing Officer
Illinois Pollution Control Board
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Respectfully submitted,

/s/ Varun Shekhar
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MOTION TO STAY

NOW COMES Petitioner, PQ LLC (“PQ”), by and through its attorneys, and pursuant to 35 Ill. Admin. Code § 101.500, moves the Board to stay and toll the contested condition of the Respondent Illinois Environmental Protection Agency’s (“Agency’s”) final-issued Construction Permit at issue in this case until the Board issues a final decision. This Motion to Stay supplements Petitioner PQ’s request for stay contained within its Petition for Review of Agency Determination, filed with the Board on July 18, 2022 and acknowledged by the Board in its Order dated August 11, 2022. This Motion clarifies that counsel for the Respondent has waived objection to or otherwise is amenable to the issuance and application of a stay as requested by Petitioner.

In support of its Motion, Petitioner PQ states as follows:

1. On June 13, 2022, the Agency issued to PQ Construction Permit No. 21110013 (“Permit”), authorizing a rebuild of PQ’s sodium silicate furnace at its Joliet, Illinois facility.
2. Condition 6 of the Permit requires PQ to install, calibrate, certify, maintain, and operate a nitrogen oxides (NOx) continuous emissions monitoring system (CEMS), within 15 months of initial startup of the rebuilt sodium silicate furnace.

3. On July 18, 2022, PQ timely filed a Petition for Review of the Permit before the Board. In the Petition, PQ included a request for the Board to stay the effectiveness and toll the 15-month deadline contained in Condition 6.

4. On August 11, 2022, the Board accepted PQ's Petition, but reserved ruling on PQ's request for stay to allow the Agency's response time to run, under 35 Ill. Admin. Code § 101.500(d). August 11, 2022 Order at 2.

5. 35 Ill. Admin. Code § 101.500(d) provides that a party may file a response to a motion within 14 days after service of the motion. Section 101.500(d) also provides that "if no response is filed, the party waives objection to the granting of the motion ..." The Agency has not filed a response to PQ's request for stay in its Petition.

6. On August 26, 2022, counsel for the Agency submitted a motion to the Board's Hearing Officer to grant a 60-day extension of the time for filing the agency record. PQ did not object to this motion. On August 29, 2022, the Hearing Officer granted the Agency's motion.

7. Given the Agency's request for a 60-day extension of time to file the agency record, PQ waived on August 29, 2022 the deadline for a final decision by the Board on this matter to the date of January 5, 2023.

8. PQ's request for stay in its July 18, 2022 Petition stated that (1) PQ would be irreparably harmed if it were required to install and operate a CEMS given the significant costs associated with CEMS installation constituting a substantial economic hardship, (2) that there is no apparent adequate remedy at law to remedy the contested condition outside of this forum, and (3) that grant of a stay of Condition 6 of the Permit would not result in any harm to the environment, namely because the grant of stay would not affect the Facility's emissions. PQ Petition at 4. PQ reiterates and incorporates these points for purposes of this Motion.

9. PQ's request for stay in its July 18, 2022 Petition also stated that CEMS installation and setup is often a complex, time-consuming, and intensive process that can take several months or longer. *Id.* PQ would be prejudiced if a stay and tolling of the effective deadline contained in Condition 6 of the Permit were not granted. In particular, based on the above extensions of time regarding filing the agency record and decision deadline, it is possible that PQ would not receive a decision as to the contested Permit condition until several months has elapsed after startup of the furnace, amounting to a substantial reduction in the effective CEMS installation period in Condition 6.

10. Counsel for PQ and the Agency have conferred, and the Agency is amenable to the grant of a stay and tolling of the contested condition as requested by PQ.

WHEREFORE, for the reasons set forth above, Petitioner PQ LLC requests that the Board stay the effectiveness of Condition 6 in the Permit until issuance of a final decision by the Board, such that the 15-month deadline in Condition 6 is deemed to be tolled during any period of time between the startup of PQ's Joliet facility's rebuilt sodium silicate furnace and issuance of a final decision by the Board.

Dated: August 29, 2022

Respectfully submitted,

/s/ Varun Shekhar

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CERTIFICATE OF E-MAIL SERVICE

I, Varun Shekhar, certify the following:

That I have served the attached MOTION TO STAY on behalf of PQ LLC by e-mail upon the following persons:

Don Brown, Clerk
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60 E. Van Buren Street, Suite 630
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That my e-mail address is vshekhar@babstcalland.com;

That the number of pages in the e-mail transmission is 6 pages; and

That the e-mail transmission took place before 5:00 PM on August 29, 2022.

/s/ Varun Shekhar
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