

ILLINOIS POLLUTION CONTROL BOARD
November 18, 2004

HARTFORD WORKING GROUP,)	
)	
Petitioner,)	
)	
v.)	PCB 05-74
)	(Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by A.S. Moore):

On October 21, 2004, Hartford Working Group (HWG) timely filed a petition asking the Board to review a September 14, 2004 determination of the Illinois Environmental Protection Agency (Agency) imposing a contested special condition in an air permit. *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 101.300(b), 105.Subpart B. The air permit, which is a joint construction and operating permit, relates to remediation of the “Hartford Area Hydrocarbon Plume Site” and specifically concerns vacuum extraction systems for HWG’s Hartford, Madison County facility. Also on October 21, 2004, HWG filed a motion to stay the effectiveness of the contested special permit condition.

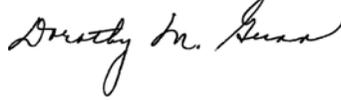
On November 4, 2004, the Board accepted HWG’s petition for review but reserved ruling on the motion to stay the effectiveness of the contested special permit condition—Special Condition 2.0. The Board reserved ruling on the motion for stay until after the 14-day timeframe for the Agency to file a response to the motion. *See* 35 Ill. Adm. Code 101.500(d). That response time has expired without any response from the Agency. Accordingly, the Agency waives any objection to the Board granting the motion for stay. *Id.*

Motions to stay a proceeding must be “accompanied by sufficient information detailing why a stay is needed.” 35 Ill. Adm. Code 101.514(a). Special Condition 2.0 states in part that “unless [HWG] is determined to be a separate source from the Premcor Refining Group, 201 East Hawthorne, Hartford,” HWG “must submit its complete CAAPP [Clean Air Act Permit Program] application for the extraction system within 12 months after commencing operation.” Petition at 2, Exhibit A (quoting Special Condition 2.0).

HWG argues that a stay of this permit condition is needed to prevent “irreparable harm” to HWG and to protect HWG’s “certain and clearly ascertainable right . . . to appeal permit conditions.” Motion at 2. According to HWG, no adequate remedy exists at law and HWG has a “probability of success on the merits.” *Id.* HWG further states that the Agency, the public, and the environment “will not be harmed if a stay is granted.” *Id.* The Board grants HWG’s motion to stay the effectiveness of Special Condition 2.0 until the Board takes final action in this appeal or until the Board orders otherwise.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 18, 2004, by a vote of 5-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board