

ILLINOIS POLLUTION CONTROL BOARD  
February 6, 1992

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 90-112
	)	(Enforcement)
CHICAGO HEIGHTS REFUSE DEPOT, Inc.,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by R.C. Flemal):

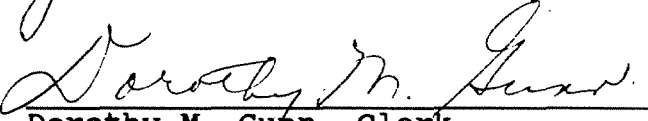
This matter comes before the Board on a January 3, 1992 request for stay filed by Chicago Heights Refuse Depot, Inc.'s (the Refuse Depot). The Refuse Depot requests stay pending appellate review of the Board's October 10, and December 6, 1991 orders, wherein the Board found the Refuse Depot in violation of certain Board regulations and permit provisions, and imposed a \$100,000 penalty. On January 23, 1992, the People of the State of Illinois (State) filed its response to the motion for stay. On January 31, 1992, the Refuse Depot filed a motion for leave to file a reply to the State's response.

The Board first addresses the motion for leave to file the reply to the response. The Board's procedural rules allow for replies to responses to motions if permitted by the Board to prevent material prejudice (35 Ill. Adm. Code 101.241(c)). The Refuse Depot alleges that statements made in the State's response regarding the Refuse Depot's compliance efforts and financial condition are materially prejudicial. The Board notes that the State did make statements regarding the Refuse Depot's finances which were somewhat speculative in nature. (State response, Section IV.) The Board further observes that the Refuse Depot's reply, which seeks to enlighten the Board on these matters, contains further facts on the Refuse Depot's financial condition that are not verified. (Reply p.2-3.) However, the Board grants the motion to file, and allows the reply to stand for what it is worth.

Upon review of the motion, response, and reply, the Board finds no reason to stay its October 10, and December 6, 1991 orders. (See also, Aden v. City of Freeport, (December 15, 1988) 94 PCB 39.) The Refuse Depot's motion for stay is accordingly denied. The Board notes that Supreme Court rule 335(g) allows the Refuse Depot to seek a stay from the appellate court.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above and Order was adopted on the 6<sup>th</sup> day of February, 1992, by a vote of 6-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board