

ILLINOIS POLLUTION CONTROL BOARD

November 19, 1992

MOTOR WHEEL CORPORATION,)
)
 Petitioner,)
)
 v.) PCB 92-140
) (Permit Appeal)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by B. Forcade):

This matter comes before the Board on a Motion to Stay filed on September 30, 1992 by Motor Wheel Corp. (MWC). The Board extended the time for the Illinois Environmental Protection Agency (Agency) to reply to this motion because the Board inadvertently overlooked the motion in its October 1, 1992 order. The Agency has not filed a response to the motion.

MWC is appealing the Agency's disapproval of a closure plan modification for two hazardous waste container storage areas at its plant in Mendota, Illinois. The Agency approved MWC's original closure plan with conditions and limitations on August 1, 1991. On June 2, 1992, MWC submitted a closure plan modification which the Agency denied on August 27, 1992. In the motion to stay, MWC requests a stay of all the conditions set forth in the Agency's August 27, 1992 letter of denial and the requirements of 35 Ill. Adm. Code Part 725 until the resolution of the permit review proceeding.

According to the Board's regulations, "if an appeal is filed, the effective date of the permit and all conditions are stayed until the appeal is concluded or the Board orders otherwise." (35 Ill. Adm. Code 705.204(b).) During a modification proceeding, the applicant must comply with the existing permit. (35 Ill. Adm. Code 705.204(c).)

Because the Agency has presented no opposition to the motion to stay, the motion is granted in part. MWC is granted a stay of all the conditions set forth in the Agency's August 27, 1992 letter of denial.

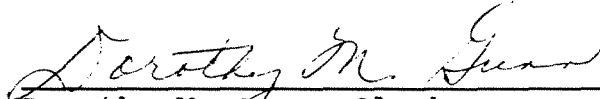
MWC has also requested a stay of all the requirements of 35 Ill. Adm. Code Part 725 until the resolution of the permit review proceeding. The Board denies the motion to stay the provisions of Part 725. The Board is concerned over the Agency's determination not to reply to the motion to stay all the provisions of Part 725. The Board believes that it would be inappropriate to grant a stay of all the hazardous waste provisions of Part 725 without any comment on whether a stay in

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such a situation is proper.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 19th day of November, 1992, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

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