

ILLINOIS POLLUTION CONTROL BOARD  
August 10, 1989

MOTOR OILS REFINING COMPANY, INC., )  
AN ILLINOIS CORPORATION, )  
 )  
Petitioner, )  
 )  
v. ) PCB 89-116  
 )  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Respondent. )

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

On July 14, 1989, Motor Oils Refining Company, Inc., ("MORCO") filed an appeal of the decision of the Illinois Environmental Protection Agency ("Agency") denying its application for a supplemental permit for its waste streams, permits 000044 through 000051 ("the permits"). In its permit appeal, MORCO requests the Board grant it a stay of the effect of the Agency's decision, thereby allowing it to continue to receive its waste streams under the terms of the permits, pending the outcome of this proceeding. On July 25, 1989, the Agency filed a Motion in Opposition to Stay. No reply to this Agency motion was filed by MORCO.

Permits were initially issued by the Agency on November 17, 1983 and expired on November 20, 1988. MORCO applied for the renewal of the permits on November 16, 1988, which application was denied by the Agency on February 16, 1989. MORCO never appealed this permit denial. MORCO filed a new application with the Agency seeking renewal of the permits on March 15 or 20, 1989\* and the Agency denied that application on June 15, 1989.

MORCO operates an oil refinery located in McCook, Illinois. MORCO's business is that of a re-refining facility which reprocesses used oils, particularly motor oils, for subsequent reuse by industry (Permit Appeal at 1-2). In support of its motion for stay, MORCO states that MORCO's inability to continue to receive its customers' materials will irreparably harm MORCO and damage their business.

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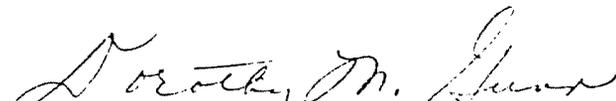
\* The actual date which the Agency received this permit application is in dispute in the pleadings. This issue is not germane to the Board's ruling on this motion.

The Agency argues in opposition to MORCO's motion that an automatic stay under Section 16(b) of the Illinois Administrative Procedure Act ("APA") is inapplicable because Section 16(b) automatic stays are only conferred upon the timely application of a renewal of a permit, and that the application for renewal of the permits here was not timely filed.

The Board believes that the automatic stay provision of Section 16(b) is not applicable in this instance because the application which is pertinent to this appeal was filed either on March 15 or 20, 1989, after the permits had expired, and was therefore not timely for the purposes of the automatic stay. MORCO itself admits that it did not pursue the renewal of its permits in a timely fashion (Permit Appeal at 7). However, the Board wishes the parties to address the issue of whether a discretionary stay is appropriate, including the potential for environmental harm in light of the statements made in paragraphs C and D of page 5 of the Agency's June 15, 1989 denial letter. Such filings shall be received at the Board no later than August 23, 1989.

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 10<sup>th</sup> day of August, 1989, by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board