

ILLINOIS POLLUTION CONTROL BOARD
March 19, 1987

HOPKINS AGRICULTURAL)
CHEMICAL COMPANY,)
)
Petitioner,)
)
v.) PCB 87-8
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by B. Forcade):

On February 13, 1987 Hopkins Agricultural Chemical Company (hereinafter "Hopkins") filed a renewed motion for stay. Various subsequent pleadings were filed by Hopkins or the Agency on February 17, 18 and 19 and March 2, 3, 5, and 17, 1987. Hopkins requests that the Board stay the contested conditions "to preserve the status quo" (Renewed Motion, p. 3) "prior to the rendition of the contested conditions" (Reply Memorandum, pp. 8-9). The Illinois Environmental Protection Agency ("Agency") asserts that any stay of the production limits in the new permit would not preserve the status quo (Agency Response, unnumbered page). Unfortunately, neither party provides the Board with a factual recitation of what the "status quo" was prior to the imposition of the contested conditions. Consequently, the Board has had to probe a significant record (which was filed late), without benefit of guidance from the parties, to determine what activities were allowed under the old permit and how the contested conditions might disrupt this status quo.

It would appear from the record that the old permit is No. 75100069 (date issued December 5, 1985). That permit authorizes Hopkins to produce 9 products on its four granular lines and places production limits on those 9 products. The subsequent permit application requests permission to produce new products. The presently contested permit grants permission to produce the same 9 products at the exact same production levels, but also permits production of 19 new products and sets production limits for them.

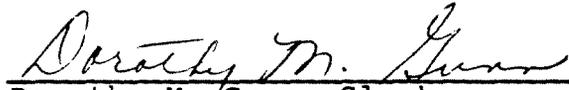
Hopkins has never made clear in its pleadings whether it is asking this Board to stay the authority to produce these new products or whether it is seeking to stay any and all limitations on the production of these new products. The Agency has done little to illuminate this issue either.

Consequently, the Board finds that the record before it is inadequate to reach a decision on the merits of the stay. The Board directs that the parties file briefs not later than March 30, 1987. Those briefs should clearly and concisely define what the limitations were under the old permit, which conditions of the new permit disrupt this "status quo," what conditions or portions of conditions are subject to the stay request and how the "status quo" will be preserved by the grant or denial of a stay.

IT IS SO ORDERED.

Chairman J.D. Dumelle dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 19th day of March, 1987, by a vote of 5-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board