

ILLINOIS POLLUTION CONTROL BOARD  
July 31, 1986

VILLAGE OF SAUGET, )  
 )  
 ) Petitioner, )  
 )  
 ) v. ) PCB 86-57  
 )  
 ) ILLINOIS ENVIRONMENTAL PROTECTION )  
 ) AGENCY, )  
 )  
 ) Respondent. )

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MONSANTO COMPANY, )  
 )  
 ) Petitioner, )  
 )  
 ) v. ) PCB 86-62  
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 ) ILLINOIS ENVIRONMENTAL ) (Consolidated)  
 ) PROTECTION AGENCY, )  
 )  
 ) Respondent. )

ORDER OF THE BOARD (by J. Anderson):

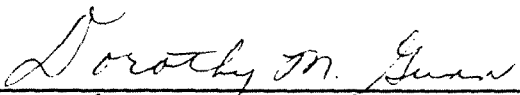
On July 11, 1986, Sauget filed a motion to stay enforcement of the reissued NPDES permit for its physical/chemical plant. No responses thereto have been filed.

In its motion, Sauget correctly notes that, pursuant to 16(b) of the Illinois Administrative Procedures Act, as construed in Borg-Warner Corp. v. Mauzy, 100 Ill. App. 3d 873 (1981), Sauget's prior NPDES permit remains in effect during the pendency of the appeal of a reissued permit. Sauget also correctly notes that the Board in Electric Energy v. IEPA, PCB 85-14, February 7, 1985, determined that entry of a Board stay order is unnecessary as the stay provided by Section 16(b) of the APA is automatic. Sauget nonetheless petitions for entry of a formal stay order, because of its receipt of a letter from USEPA on June 16 concerning this reissued permit, as well as the new permit for the American Bottoms Regional Treatment Facility which is the subject of the PCB 86-58 appeal. This letter states in pertinent part that USEPA "considers these permits to be in full force and effect regardless of the status of the appeals before the IPCB", and specifically mentions interest in ensuring that two special conditions of this reissued permit are "complied with on time".

The Board grants Sauget's motion insofar as it hereby finds that Sauget's statement of Illinois law is correct. However, the Board cannot "stay" the contested conditions of the reissued permit, as these conditions have no force and effect during the pendency of this appeal; state law dictates that the prior permit is the permit which is currently in effect.

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 31<sup>st</sup> day of July, 1986 by a vote of 5-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board