ILLINOIS POLLUTION CONTROL BOARD
February 2, 1989

ARCO PRODUCTS COMPANY,   )
)
            Petitioner,   )
)
       v.   )   PCB 89-5
)
ILLINOIS ENVIRONMENTAL   )
PROTECTION AGENCY,   )
)
            Respondent.   )

ORDER OF THE BOARD (by J. Marlin)

On January 31, 1989, ARCO Products Company (ARCO) filed a Motion for Stay requesting that the terms of the National Pollutant Discharge Elimination System (NPDES) permit which is the subject of the instant appeal be stayed pending the Board's final decision in this matter. ARCO further states that it realizes that while a stay is in effect, it will be obligated to conform to the terms and conditions of one previously issued NPDES permit. Finally, ARCO asserts that the Agency has no objection to the entry of such a stay.

In matters concerning the renewal of an NPDES permit, Section 16(b) of the Illinois Administrative Procedure Act (APA) governs, and the effectiveness of the renewed permit is stayed pending the challenge of that permit. The prior NPDES permit remains in effect during the appeal of the renewed permit. Section 16(b) of the Illinois Administrative Procedure Act, Ill. Rev. Stat. 1987, ch. 127, par. 1016(b); Borg-Warner Corporation v. Mauzy 100 Ill. App. 3d 862, 427 N.E.2d 415 (1981). In such situations the entry of a stay order is unnecessary as the stay provided by Section 16(b) of the APA is automatic. Village of Sauget v. Illinois Environmental Protection Agency, PCB 86-57, Monsanto Company v. Illinois Environmental Protection Agency, PCB 86-62 (Consolidated), (July 31, 1986); Electric Energy v. Illinois Environmental Protection Agency, PCB 85-14 (February 7, 1985).

Since the Board has no reason to believe that ARCO should not receive an automatic stay, ARCO's motion is moot in so far as a stay is conferred as a matter of law.

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 _2nd_ day of _February_ , 1989, by a vote
of _7-0_ .
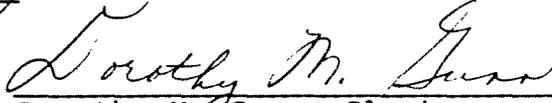
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board