

ILLINOIS POLLUTION CONTROL BOARD  
November 3, 1988

BILL ADEN, JOHN SCHRODER, )  
VELMA SCHRODER, JOE KENDALL, )  
LAMORN MORRIS, et. al., )  
 )  
Petitioner, ) PCB 86-193  
 )  
v. )  
 )  
CITY OF FREEPORT, )  
 )  
Respondent. )

ORDER OF BOARD (by J. Marlin):

On October 13, 1988 Complainants other than Bill Aden and Joe Kendall (Complainants) filed a Motion for Limited Rehearing or Modification of Final Order. The City of Freeport (Freeport) did not file a response to this motion. However, Freeport filed a Motion for Stay of the Board's September 8, 1988 Order on October 24, 1988. Essentially, Freeport requests a stay to the extent that the Board's Order imposes a \$10,000 civil penalty pending an appeal by Freeport in the Illinois Appellate Court, Second District. The Board received notice of this appeal on October 19, 1988.

Since the Complainants' motion was filed in a timely manner, the Board has jurisdiction to act on the motion notwithstanding Freeport's appeal which was filed with the Second District on October 13, 1988. See Clean Air Coordinating Committee v. Environmental Protection Agency, 42 Ill. App. 3d 124, 355 N.E.2d 573 (1st Dist. 1976) (An appeal of a Board decision taken prior to the Board's disposition of a timely filed motion for reconsideration was premature and ineffective.); Supreme Court Rule 303(a); Ill. Rev. Stat. 1987, ch. 110, par. 3-101.

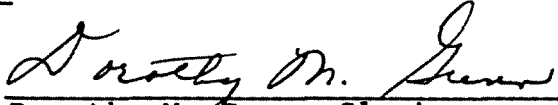
The Board is not persuaded by the arguments presented in the Complainants' October 13, 1988 motion that this matter should be reconsidered. Complainants' motion is denied.

In addition, the Board will not stay the effect of its September 8, 1988 Final Order; Freeport's motion is denied.

IT IS SO ORDERED.

J. D. Dumelle concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 3<sup>rd</sup> day of November, 1988, by a vote of 6-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board