

ILLINOIS POLLUTION CONTROL BOARD
June 19, 1997

MAYWOOD/PHILLIPS 66)	
)	
Petitioner,)	
)	
v.)	PCB 97-169
)	(UST - Reimbursement)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by M. McFawn):

Petitioner Maywood/Phillips 66 has filed an appeal of the Illinois Environmental Protection Agency's ("Agency") denial of reimbursement from the Underground Storage Tank Fund of certain costs in connection with corrective and remedial action at Petitioner's gas station in Maywood, Illinois. By an order dated June 5, 1997, the Board accepted this matter for hearing.

Now pending before the Board is the Agency's Motion for Extension of Time to File Agency Record, dated June 6, 1997 and filed with the clerk on June 11, 1997. In its motion, the Agency states that the petition was filed on or about June 1, 1997, and that the Agency received notice of the filing on or about June 2, 1997. Under 35 Ill. Adm. Code 105.102(a)(4),¹ the entire record of the Agency regarding Petitioner's application for reimbursement (the "Agency Record") is to be filed with the Board within 14 days of notice of the petition. The Agency notes that a public hearing has not been scheduled in this matter, and requests that the Board extend the period for filing of the Agency Record to "not less than 30 days from the date of the scheduled public hearing" in this case. The Agency states that Petitioner already has a majority of the documents that would constitute the Agency Record in this case and therefore will not be prejudiced by this extension. Petitioner has not filed a response to the Agency's motion.

The Board grants the Agency's motion, with one modification. The Board notes that if either party files a motion for summary judgment, the Board may need the complete Agency Record. Accordingly, the Board's order will provide that the Agency Record must be filed within 14 days after the Agency files a motion for summary judgment or receives a motion for summary judgment filed by Petitioner.

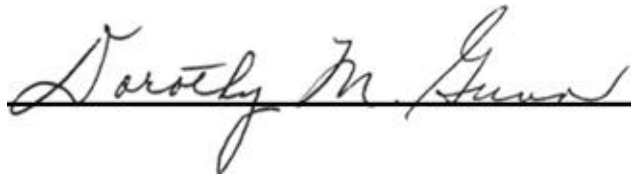
¹ Section 105.102 governs permit appeals. Under Section 57.8(i) of the Illinois Environmental Protection Act, 415 ILCS 5/57.8(i), appeals of denials of reimbursement from the Underground Storage Tank Fund are conducted in the same manner as permit appeals.

ORDER

The Board grants Respondent's motion to file the Agency Record not less than 30 days from the date of the scheduled public hearing or as otherwise ordered by the hearing officer; provided, however, that if either party files a motion for summary judgment, the Agency must file the Agency Record within 14 days after such motion is filed or received by the Agency.

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 19th day of June, 1997, by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board