

ILLINOIS POLLUTION CONTROL BOARD
December 18, 2003

BROADUS OIL,)	
)	
Petitioner,)	
)	
v.)	PCB 04-31
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J.P. Novak):

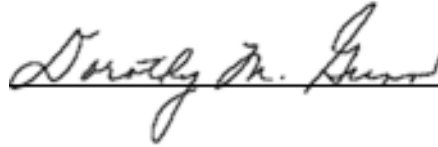
On September 18, 2003, the Board, at the parties' request, extended until December 11, 2003, the time period within which Broadus Oil may appeal an August 6, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. On December 15, 2003, Broadus Oil filed a petition asking the Board to review the Agency's determination. Because the postmark date of the petition is within the extended time for filing, the petition was timely filed. 35 Ill. Adm. Code 101.300(b)(2), 105.404. The Agency rejected petitioner's high priority corrective action plan regarding Broadus Oil's UST site at Main and Broadway Street, Marseilles, LaSalle County. Broadus Oil appeals on the grounds that the Agency determination did not explain the rejection of the budget amendment, and because the Agency determination was in error. Broadus Oil's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Broadus Oil has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2002)), which only Broadus Oil may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Broadus Oil may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is April 13, 2004 (the 120th day after December 15, 2003). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for April 1, 2004.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by January 17, 2004, which is 30 days after Broadus Oil filed the petition. 35 Ill. Adm. Code 105.410(a). If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. 35 Ill. Adm. Code 105.116. The record must comply with the content requirements of 35 Ill. Adm. Code 105.410(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 18, 2003, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board