

ILLINOIS POLLUTION CONTROL BOARD  
December 18, 2003

WEI ENTERPRISES,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 04-83
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by T.E. Johnson):

On November 17, 2003, Wei Enterprises (Wei) filed a petition asking the Board to review an October 8, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.402. At issue is the Agency's approval of payment of requested reimbursement from the Underground Storage Tank Fund, with modifications, for Wei's underground storage tank facility at 529 Maple Street, Shiloh, St. Clair County. Wei appeals on the grounds that the Agency adjustments to the requested reimbursement were unreasonable, onerous, arbitrary, and capricious.

On November 20, 2003, the Board issued an order directing Wei to file an amended petition containing proof of the date on which it received a copy of the October 8, 2003 Agency determination to allow the Board to determine whether Wei Enterprises timely filed its petition. On December 5, 2003, the Board received an amended petition with the requested information. According to the attached affidavit, Wei received the Agency determination on October 9, 2003. Because the postmark date of the original petition was filed within 35 days of the date of service, the petition was timely filed. 35 Ill. Adm. Code 101.300(b)(2), 105.404.

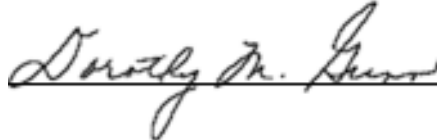
Wei's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing. Wei has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. 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 Wei may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Wei may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is April 4, 2004 (the 120th day after December 5, 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 5, 2004, which is 30 days after Wei filed the amended 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", is written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board