

ILLINOIS POLLUTION CONTROL BOARD  
February 20, 2020

IMTT ILLINOIS, LLC, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 20-47  
 ) (Permit Appeal - NPDES)  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

ORDER OF THE BOARD (by B.K. Carter):

On January 9, 2020, IMTT Illinois, LLC (IMTT Illinois) timely filed a request (Req.) to extend the 35-day period within which to appeal a December 13, 2019 determination of the Illinois Environmental Protection Agency (IEPA). *See* 415 ILCS 5/40(a)(1) (2018); 35 Ill. Adm. Code 101.300(b), 105.206(c), 105.208(a), (c). In the determination, IEPA issued a revised National Pollutant Discharge Elimination System permit to IMTT Illinois' facility located at 13589 Main Street in Lemont, Cook County. IMTT Illinois reported receiving the revised permit on or about December 17, 2019. IEPA agreed to extend the deadline by 30 days.

On January 16, 2020, the Board extended the appeal period as requested for 30 days to February 20, 2020. *See* 415 ILCS 5/40(a)(1) (2012); 35 Ill. Adm. Code 105.208(a).


On February 6, 2020, IMTT Illinois filed a request for a 60-day extension of the appeal period (Req.). IMTT Illinois reports that the parties have discussed the issues involved in this appeal. Req. at 1. IEPA agrees that the appeal period should be extended for an additional 60 days. *Id.*; *see* Exh. A (IEPA email). IMTT Illinois states that 60 additional days extend the appeal deadline to the full 90-day extension allowed by statute.

The Board recognizes that “[t]he additional time requested by the parties may eliminate the need for a hearing in this matter or, in the alternative, allow the parties to identify issues and limit the scope of any hearing that may be necessary to resolve this matter.” Req. at 2. However, “the 35-day period for petitioning for a hearing may be extended for an additional period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Agency *within the initial appeal period*. 415 ILCS 5/40(a)(1) (2018) (emphasis added). The Board’s procedural rules cite this provision and add that “[t]he applicant and the Agency must jointly file a request for extension with the Board *within 35 days after the date of service of the Agency’s final decision*. 35 Ill. Adm. Code 105.406. With service on December 17, 2019, the initial appeal period of 35 days ended on January 21, 2020. During the initial appeal period, the Board extended the filing deadline by a period not exceeding 90 days. However, the Act does not provide the Board authority to extend an appeal deadline once the initial 35-day appeal period has passed.

Under these circumstances, the Board construes IMTT Illinois' unopposed request as a timely petition for review of IEPA's determination. The Board directs IMTT Illinois to file an amended petition for review within 60 days of the date of this order, on or before Monday, April 20, 2020. If IMTT does not file an amended petition on or before that deadline, the Board will dismiss this appeal.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 20, 2020 by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink and is positioned above a horizontal line.

Don A. Brown, Clerk  
Illinois Pollution Control Board