

ILLINOIS POLLUTION CONTROL BOARD
October 17, 2024

ARCHER DANIELS MIDLAND)	
COMPANY,)	
)	
Petitioner,)	
)	PCB 25-6
v.)	(Permit Appeal – Water, NPDES)
)	(90-Day Extension)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by M.D. Mankowski):

On August 14, 2024, the parties timely filed a joint notice to extend the 35-day period within which Archer Daniels Midland Company (ADM) may appeal a July 11, 2024, determination by the Illinois Environmental Protection Agency (Agency or IEPA). *See* 415 ILCS 5/40(a)(1) (2022); 35 Ill. Adm. Code 101.300(b), 105.206(c), 105.208(a), (c). In the determination, the Agency issued a National Pollutant Discharge Elimination System (NPDES) permit for ADM’s North Water Treatment Plant in Macon County.

On August 22, 2024, the Board extended the appeal period as requested to October 9, 2024. *See* 415 ILCS 5/40(a)(1) (2022); 35 Ill. Adm. Code 105.208(a).

On October 1, 2024, ADM filed a request for an additional extension of the appeal period (Req.). ADM reports that it had not received a response from IEPA to its request to modify a provision of the NPDES permit. Req. at 2. Additionally, ADM reports that IEPA stated a meeting is necessary to discuss ADM’s request, but that the meeting cannot be scheduled until after October 20, 2024. *Id.* ADM now requests an additional extension of the appeal period to November 14, 2024, stating that IEPA agrees to this request and that the additional time “will allow the parties to meet and confer in an attempt to resolve this matter.” *Id.*

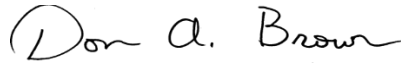
The Board recognizes that the requested extension would allow the parties to continue to work toward the possible resolution of disputed issues without a hearing. However, “the 35-day period for petitioning for a hearing may be extended for an additional period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Agency *within the initial appeal period.*” 415 ILCS 5/40(a)(1) (2022) (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 105.208 (emphasis added). With service on July 12, 2024, the initial appeal period of 35 days ended on August 16, 2024. During the initial appeal period, the parties requested that the Board extend the filing deadline by a period not exceeding 90 days, and

the Board did so. 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 ADM's unopposed request as a timely petition for review of IEPA's determination. The Board directs ADM to file an amended petition for review on or before Thursday, November 14, 2024, which is 90 days after the initial 35-day appeal deadline. IMTT Illinois, LLC v. IEPA, PCB 20-47 (Feb. 20, 2020); *see* 35 Ill. Adm. Code 101.300(a). If ADM 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 October 17, 2024, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board