

ILLINOIS POLLUTION CONTROL BOARD
December 6, 2001

SAUER-DANFOSS (US) COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 02-58
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by G.T. Girard):

On November 13, 2001, Sauer-Danfoss (US) Company (Sauer-Danfoss) timely filed a petition asking the Board to review an October 2, 2001 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2000); 35 Ill. Adm. Code 105.206(a). The Agency denied Sauer-Danfoss' request for a no further remediation letter (NFR letter) regarding the petitioner's facility located in LaSalle, LaSalle County. Sauer-Danfoss appeals on the grounds that their request for a NFR letter would not violate the Environmental Protection Act (Act) or any Board rule and furthermore, at the time of their request the Agency represented to the petitioner that the request was acceptable. Sauer-Danfoss' petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

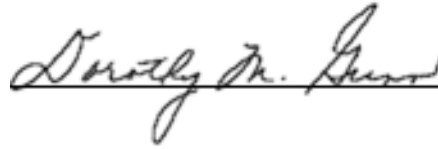
Sauer-Danfoss has the burden of proof. 415 ILCS 5/40(a)(1) (2000); *see also* 35 Ill. Adm. Code 105.112(a). Hearings "will be based exclusively on the record before the Agency at the time the permit or decision was issued." 35 Ill. Adm. Code 105.214(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2000)), which only Sauer-Danfoss may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Sauer-Danfoss "may deem the permit issued." 415 ILCS 5/40(a)(2) (2000). Currently, the decision deadline is March 13, 2002, (the 120th day after November 13, 2001). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for March 7, 2002.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination within 30 days after Sauer-Danfoss filed the petition. 35 Ill. Adm. Code 105.212(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 105.212(b).

On December 3, 2001, a motion to appear *pro hac vice* was filed in this case, by petitioner's attorney. The motion is hereby granted.

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 6, 2001, 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