ILLINOIS POLLUTION CONTROL BOARD January 24, 2002

ESTATE OF EDMUND F. RADKIEWICZ)	
(LPC# 0434675346; IEMA# 20002255),)	
)	
Petitioner,)	
)	
V.)	PCB 02-96
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.A. Manning):

On January 17, 2002, the Estate of Edmund F. Radkiewicz (Radkiewicz) timely filed a petition asking the Board to review a December 14, 2001 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2000); 35 Ill. Adm. Code 105.404.

The Agency denied Radkiewicz's amended high priority corrective action budget regarding an underground storage tank site at 31W 175 Butterfield Road in Naperville, DuPage County. Radkiewicz appeals on the grounds that the budget was timely submitted, and was approvable. Radkiewicz's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Radkiewicz 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) (2000)), which only Radkiewicz may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Radkiewicz may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2000). Currently, the decision deadline is May 17, 2002 (the 120th day after January 17, 2002). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for May 16, 2002.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination within 30 days after Radkiewicz 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 January 24, 2002, by a vote of 7-0.

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board