

ILLINOIS POLLUTION CONTROL BOARD

March 7, 2002

E & L TRUCKING COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 02-53
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On November 15, 2001, the Board, at the parties' request, extended until February 4, 2002, the time period within which E & L Trucking Company (E & L) may appeal an October 2, 2001 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2000); 35 Ill. Adm. Code 105.406. On February 4, 2002, E & L filed a petition asking the Board to review the Agency's determination.

The Agency partially denied, for a variety of stated reasons, E & L's application for reimbursement regarding underground storage tanks located at 12525 Hamlin Court in Alsip, Cook County. E & L appeals on the grounds, among others, that it filed all necessary reports pertaining to the leak, and that the Agency did not clearly object to the early action activities performed. E & L's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

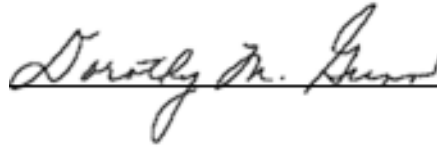
E & L has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2000)), which only E & L may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, E & L may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2000). Currently, the decision deadline is June 4, 2002 (the 120th day after February 4, 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 E & L filed the petition. 35 Ill. Adm. Code 105.410(a). For the reasons stated in companion docket PCB 02-101, the record will include any information produced during the 90-day extension period granted November 15, 2001 which resulted in the January 4, 2002 Agency modification of the October 2, 2001 decision. E & L Trucking Company v. IEPA, PCB 02-101 (Mar. 7, 2002). If the Agency requires 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 March 7, 2002, by a vote of 7-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a solid horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board