

ILLINOIS POLLUTION CONTROL BOARD
July 11, 2002

ROCKFORD STOP-N-GO, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 02-160
)	(UST Fund)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On April 4, 2002, the Board, at the parties' request, extended until July 2, 2002, the time period within which Rockford Stop-N-Go, Inc. (Rockford) may appeal a February 25, 2002 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2000); 35 Ill. Adm. Code 105.406. On July 1, 2002, Rockford's attorney filed a petition asking the Board to review the Agency's determination, discussed below. The petition was accompanied by a motion to appear *pro hac vice*.

The motion states that Rockford's attorney, Raymond M. Roder, is a shareholder in the law firm of Reinhart Boerner Van Deuren s.c. in Madison, Wisconsin. Roder asserts he has been licensed to practice law in Wisconsin since June 22, 1977, and is in good standing with the Wisconsin Supreme Court and Wisconsin Board of Attorneys Professional Responsibility. The Board grants Roder leave to appear *pro hac vice*.

The Agency denied part of Rockford's request for reimbursement from the Underground Storage Tank Fund regarding a leaking underground storage tank site at 4400 Route 173, Caledonia, Boone County. Rockford appeals on several grounds, including the Agency's alleged failure to consider early action costs, costs included in the site classification budget, and other reasonable and eligible costs. Rockford's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

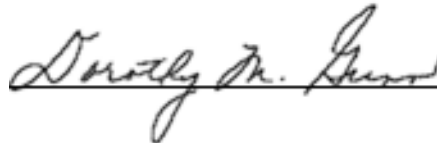
Rockford has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2000)), which only Rockford may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Rockford may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2000). Currently, the decision deadline is October 29, 2002 (the 120th day

after July 1, 2002). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for October 17, 2002.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by July 31, 2002, which is 30 days after Rockford 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 July 11, 2002, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board