

ILLINOIS POLLUTION CONTROL BOARD

August 8, 2002

UOP LLC,)	
)	
Petitioner,)	
)	
v.)	PCB 02-187
)	(CAAPP Permit Appeal – Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On May 2, 2002, the Board, at the parties' request, extended until August 4, 2002, the time period within which UOP LLC (UOP) may appeal an April 1, 2002 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40.2(a) (2000). On August 2, 2002, UOP filed a petition asking the Board to review the Agency's determination.

UOP alleges that the Agency did not consider UOP's comments prior to issuing the final Clean Air Act Permit Program (CAAPP) permit under Section 39.5 of the Environmental Protection Act (Act) (415 ILCS 5/39.5 (2000)). The CAAPP permit application concerns UOP's facility at 8400 Joliet Road, McCook, Cook County.

Section 40.2(a) of the Act (415 ILCS 5/40.2(a) (2000)) allows several persons to appeal Agency CAAPP permit determinations: permit applicants; persons who participated in the Agency's public comment process under Section 39.5(8) of the Act (415 ILCS 5/39.5(8) (2000)); and persons who could obtain judicial review under Section 41(a) of the Act (415 ILCS 5/41(a) (2000)). 415 ILCS 5/40.2(a) (2000); *see also* 35 Ill. Adm. Code 105.302(c). UOP is the CAAPP permit applicant.

UOP appeals on the grounds, among others, that the Agency failed to consider UOP's objection letter. The Board accepts the petition for hearing.

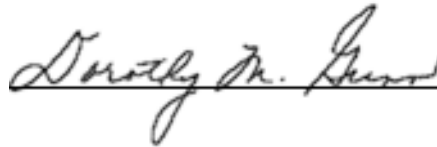
UOP has the burden of proof. 415 ILCS 5/40.2(a) (2000); *see also* 35 Ill. Adm. Code 105.112(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40.2(c) (2000)), which only UOP may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, "the permit shall not be deemed issued; rather, the petitioner shall be entitled to an appellate court order pursuant to Section 41(d) of this Act [415 ILCS 5/41(d) (2000)]." 415 ILCS 5/40.2(c) (2000). Currently, the decision deadline is November 30, 2002 (the 120th day

after August 2, 2002). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for November 21, 2002.

Unless the Board or the hearing officer orders otherwise, the Agency must file an answer, including the entire record of its determination within 30 days after it is served with the petition. 35 Ill. Adm. Code 105.302(f). 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 105.302(f).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 8, 2002, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board