

ILLINOIS POLLUTION CONTROL BOARD

August 8, 2002

SMOOT OIL COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 02-196
)	(UST Fund)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On May 16, 2002, the Board, at the parties' request, extended until August 2, 2002, the time period within which Smoot Oil Company (Smoot) may appeal a March 29, 2002 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40 (a)(1) (2000) *amended* by P.A. 92-0574, eff. June 26, 2002; 35 Ill. Adm. Code 105.406. On August 1, 2002, Smoot filed a petition asking the Board to review the Agency's determination.

The Agency denied part of Smoot's request for reimbursement from the Underground Storage Tank Fund regarding a leaking underground storage tank at I-57 and Dongola Road, Dongola, Union County. Smoot appeals on several grounds, including the Agency's allegedly erroneous denial of costs it deemed to be excessive or unreasonable. Smoot's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

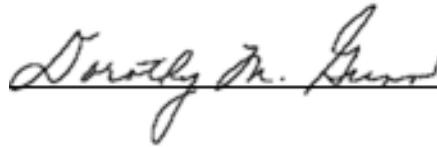
Smoot has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2000) *amended* by P.A. 92-0574, eff. June 26, 2002), which only Smoot may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Smoot may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2000) *amended* by P.A. 92-0574, eff. June 26, 2002. Currently, the decision deadline is November 29, 2002 (the 120th day after August 1, 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 the entire record of its determination by August 31, 2002, which is 30 days after Smoot 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 August 8, 2002, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board