

ILLINOIS POLLUTION CONTROL BOARD
October 17, 2002

ILLINOIS STATE TOLL HIGHWAY)	
AUTHORITY,)	
)	
Petitioner,)	
)	
v.)	PCB 03-1
)	(UST Fund)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On July 11, 2002, the Board, at the parties' request, extended until October 1, 2002, the time period within which the Illinois State Toll Highway Authority (Authority) may appeal a May 24, 2002 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2000) *as amended by* P.A. 92-0574, eff. June 26, 2002; 35 Ill. Adm. Code 105.406. On October 1, 2002, the Authority filed a petition asking the Board to review the Agency's determination.

The Agency denied part of the Authority's request for reimbursement from the Underground Storage Tank Fund regarding a leaking underground storage tank site at Mile Post 109 of the East-West Tollway (I-88), DeKalb, DeKalb County. The Authority appeals on several grounds, including that the work performed was conducted pursuant to the approved revised corrective action plan. The Authority's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

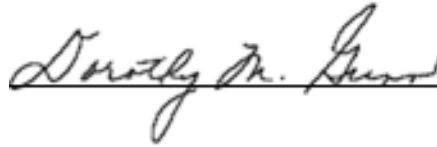
The Authority has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2000) *as amended by* P.A. 92-0574, eff. June 26, 2002), which only the Authority may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, the Authority may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2000) *as amended by* P.A. 92-0574, eff. June 26, 2002. Currently, the decision deadline is January 29, 2003 (the 120th day after October 1, 2002). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for January 23, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by October 31, 2002, which is 30 days after the Authority 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 October 17, 2002, by a vote of 6-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board