

ILLINOIS POLLUTION CONTROL BOARD
January 9, 2003

HERR PETROLEUM CORPORATION, an)	
Illinois corporation,)	
)	
Petitioner,)	
)	PCB 03-86
v.)	(UST Fund)
)	
OFFICE OF THE STATE FIRE)	
MARSHAL,)	
)	
Respondent.)	

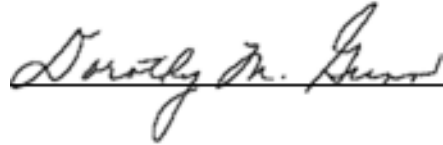
ORDER OF THE BOARD (by T. E. Johnson):

The Board accepts for hearing Herr Petroleum Corporation's (Herr) December 17, 2002 timely filed petition appealing the Office of the State Fire Marshal's (OSFM) decision to limit reimbursement from the Underground Storage Tank Fund. *See* 415 ILCS 5/57.9(c)(2) (2000); 35 Ill. Adm. Code 105.504(b). The OSFM determined that Herr has a \$100,000 deductible for reimbursement from the Underground Storage Tank Fund regarding an underground storage tank site at 319 E. Main, Route 150, Knoxville, Knox County. Herr appeals on the grounds that the \$100,000 deductible would be a severe hardship and would constitute a penalty disproportionate to any harm or violation. Additionally, Herr contends that the assessment of a \$100,000 deductible would constitute an unconstitutional taking and would violate Herr's due process constitutional rights. Herr's petition meets the content requirements of 35 Ill. Adm. Code 105.506.

Herr has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be scheduled and completed in a timely manner. Unless the Board or the hearing officer orders otherwise, the OSFM must file the entire record of its determination within 30 days after Herr filed the petition. 35 Ill. Adm. Code 105.508(b). If the OSFM 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 105.508(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 January 9, 2003, by a vote of 5-0

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board