

ILLINOIS POLLUTION CONTROL BOARD
January 23, 2003

FREEDOM OIL COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 03-105
)	(UST Fund)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On January 14, 2003, Freedom Oil Company (Freedom Oil) timely filed a petition asking the Board to review a December 18, 2002 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002), *amended by* P.A. 92-0574, eff. June 26, 2002; 35 Ill. Adm. Code 105.404. The Agency decided to assess a \$20,000 deductible against a \$185,644.12 claim for payment from the Underground Storage Tank Fund regarding an underground storage tank site 401 South Main Street in Paris, Edgar County.

In addition, the Agency agreed to pay only \$83,521.78 of the requested \$185,644.12 claim. Freedom Oil appeals on two grounds. First, Freedom Oil argues that the Agency lacked authority to apply a \$20,000 deductible because Freedom Oil had already paid a \$10,000 deductible as directed by the Office of the State Fire Marshall. Second, Freedom Oil argues that all costs included in the \$185,644.12 claim were eligible for reimbursement contrary to the Agency's decision. Freedom Oil's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Freedom Oil 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) (2002), *amended by* P.A. 92-0574, eff. June 26, 2002), which only Freedom Oil may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Freedom Oil may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002), *amended by* P.A. 92-0574, eff. June 26, 2002. Currently, the decision deadline is May 14, 2003 (the 120th day after January 14, 2003). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for May 1, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by February 13, 2003, which is 30 days after Freedom Oil 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 January 23, 2003, by a vote of 6-0.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board