

ILLINOIS POLLUTION CONTROL BOARD  
May 1, 1997

MCKAY CONTRACTORS, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 97-150
	)	(UST - Reimbursement)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

On March 3, 1997 McKay Contractors, Inc. (petitioner) filed a notice of extension of the 35-day appeal period pursuant to Section 40 of the Environmental Protection Act. On March 10, 1997 the Illinois Environmental Protection Agency (Agency) filed its concurrence and a joint notice. The Agency requested the extension "to April 29, 1997, or any other date not more than a total of 90 days from the date of the Agency's final determination." The Agency issued a final reimbursement decision on January 29, 1997, accompanied by Attachment A which contained the stated reasons for deductions. The final determination concerns the petitioner's site located at 11501 West Irving Park Road, Chicago, Cook County, Illinois. On April 29, 1997 the Board received the petitioner's petition for review. The petition for review was accompanied by a waiver of the decision deadline for 120 days. (Petitioner may file a waiver of the statutory decision deadline pursuant to 35 Ill. Adm. Code 101.105.) This matter is accepted for hearing.

The hearing must be scheduled and completed in a timely manner, consistent with Board practices and the applicable statutory decision deadline, or the decision deadline as extended by a waiver. The Board will assign a hearing officer to conduct hearings consistent with this order, and the Clerk of the Board shall promptly issue appropriate directions to that assigned hearing officer.

The assigned hearing officer shall inform the Clerk of the Board of the time and location of the hearing at least 30 days in advance of hearing so that a 21-day public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list, a statement regarding credibility of witnesses, and all actual exhibits to the Board within five days of the hearing.

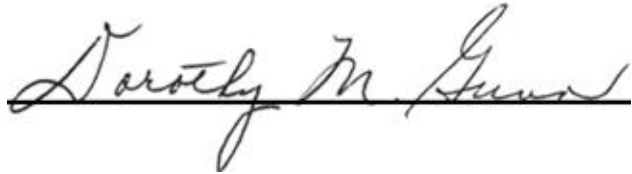
Any briefing schedule shall provide for final filings as expeditiously as possible and, in time-limited cases, no later than 30 days prior to the decision due date, which is the final regularly scheduled Board meeting date on or before the statutory or deferred decision deadline. Absent any future waivers of the decision deadline, the statutory decision deadline is

now December 25, 1997<sup>1</sup> (240 days from April 30, 1997);<sup>2</sup> the Board meeting immediately preceding the decision deadline is scheduled for December 18, 1997.

If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date in conformance with the schedule above. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible. The Board notes that Board rules (35 Ill. Adm. Code 105.102) require the Agency to file the entire Agency record of the reimbursement application within 14 days of notice of the petition.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 1st day of May, 1997, 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

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<sup>1</sup> As December 25, 1997 is a State of Illinois holiday the statutory decision deadline in this matter will be December 26, 1997 the next day that the Board is open for business.

<sup>2</sup> The number of days is computed from the required statutory decision deadline of 120 days plus the waiver of 120 days.