

ILLINOIS POLLUTION CONTROL BOARD
February 20, 2003

WABASH VALLEY SERVICE,)	
)	
Petitioner,)	
)	
v.)	PCB 03-72
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On November 21, 2003, the Board, at the parties' request, extended until February 13, 2003, the time period within which Wabash Valley Service (Wabash Valley) may appeal a October 11, 2002 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. On February 13, 2003, Wabash Valley placed in the U.S. mail a petition asking the Board to review the Agency's determination. The Board received the petition on February 18, 2003. Because the petition's postmark date is within the extended filing period, the petition was timely filed. *See* 35 Ill. Adm. Code 101.300(b)(2). The Agency requested that Wabash Valley's high priority corrective action plan include an explanation of why the soil and groundwater contamination encountered on site is upgradient of the underground storage tank release area. The request concerns a leaking underground storage tank site 207 East Sycamore Street in Ridgway, Gallatin County. Wabash Valley appeals on the grounds that the Agency's determination was arbitrary and capricious. Wabash Valley's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

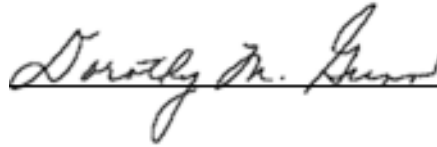
Wabash Valley has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2002)), which only Wabash Valley may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Wabash Valley may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is June 18, 2003 (the 120th day after February 18, 2003). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for June 5, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by March 20, 2003, which is 30 days after Wabash Valley 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 February 20, 2003, 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