

ILLINOIS POLLUTION CONTROL BOARD  
March 20, 2003

BIGGS BROTHERS SERVICE,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 03-85
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

On December 19, 2002, the Board, at the parties' request, extended until March 12, 2003, the time period within which Biggs Brothers Service (Biggs) may appeal a November 7, 2002 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. On March 14, 2003, Biggs filed a petition asking the Board to review the Agency's determination. Because the postmark date of the joint request is within the extended time for filing, the petition was timely filed. 35 Ill. Adm. Code 101.300(b)(2), 105.404.

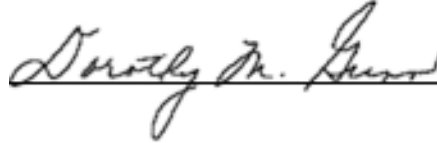
The Agency modified the high priority corrective action plan regarding a leaking underground storage tank site at 2540 Kingshighway, Fairmont City, Madison County. Biggs appeals on the grounds that the Agency's adjustment of the budget was arbitrary and capricious. Biggs's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Biggs 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 Biggs may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Biggs may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is July 12, 2003 (the 120th day after March 14, 2003). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for July 10, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by April 13, 2003, which is 30 days after Biggs 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 March 20, 2003, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board