

ILLINOIS POLLUTION CONTROL BOARD  
April 3, 2003

RALPH JOHNSON,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 03-92
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

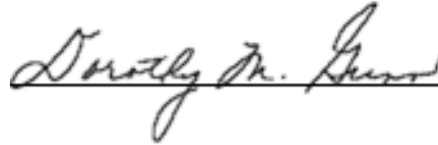
On January 9, 2003, the Board, at the parties' request, extended until March 25, 2003, the time period within which Ralph Johnson (Johnson) may appeal a November 19, 2002 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.208(a). On March 26, 2003, Johnson 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 approved Johnson's request for reimbursement of corrective action costs with deductions regarding his leaking underground petroleum storage facility located at 9th Street and Fair Avenue, in Pana, Christian County. Johnson appeals on the grounds that the Agency adjustment was without technical justification and was arbitrary and capricious. Johnson's petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

Johnson has the burden of proof. 415 ILCS 5/40(a)(1) (2000); *see also* 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the decision was issued. 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 Johnson may extend by waiver. *See* 35 Ill. Adm. Code 101.308. If the Board fails to take final action by the decision deadline, Johnson "may deem the permit issued." 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is July 24, 2003 (the 120th day after March 26, 2003). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for July 24, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by April 25, 2003, which is 30 days after Johnson 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 April 3, 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