

ILLINOIS POLLUTION CONTROL BOARD
April 3, 2003

R.W. SHERIDAN OIL COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 03-88
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by W.A. Marovitz):

On January 9, 2003, the Board, at the parties' request, extended until March 18, 2003 the time period within which Sheridan Oil Company (Sheridan) may appeal a November 13, 2002 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40 (a)(1) (2000); 35 Ill. Adm. Code 105.208(a). On March 18, 2003, Sheridan filed a petition asking the Board to review the Agency's determination. *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 101.300(b)(2) (Sheridan's petition, received after the deadline, is deemed filed on postmark date of March 18, 2003), 105.402, 105.406.

The Agency modified the high priority corrective action plan regarding a leaking underground storage tank site at 301 South Chestnut in Le Roy, McLean County. Sheridan appeals on the grounds that the Agency erred in modifying Sheridan's corrective action plan and in limiting Sheridan's costs that may be reimbursed from the State UST Fund. Petition at 3-4. Sheridan claims that its plan is reasonable and consistent with generally accepted engineering practices, and that its costs of implementing the plan are eligible for Fund reimbursement. *Id.* Sheridan's petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

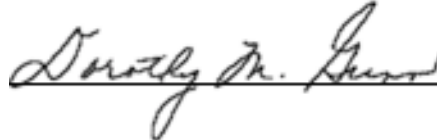
Sheridan has the burden of proof. 415 ILCS 5/40(a)(1) (2000); *see also* 35 Ill. Adm. Code 105.112(a). Hearings "will be based exclusively on the record before the Agency at the time the permit or decision was issued." 35 Ill. Adm. Code 105.214(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2000)), which only Sheridan may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Sheridan "may deem the permit issued." 415 ILCS 5/40(a)(2) (2000). Currently, the decision deadline is July 18, 2003 (the 120th day after March 20 receipt of Sheridan's petition). *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 21, 2003, which is 30 days after the Board received the

petition. 35 Ill. Adm. Code 105.212(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 105.212(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", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board