

ILLINOIS POLLUTION CONTROL BOARD
April 3, 2003

MAIN STATION,)	
)	
Petitioner,)	
)	
v.)	PCB 03-87
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by D.C. Karpel):

On January 9, 2003, the Board, at the parties' request, extended until March 17, 2003, the time period for Main Station (Main) to appeal a November 12, 2002 decision of the Illinois Environmental Protection Agency (Agency). The decision concerns Main's leaking underground storage tank (UST) site at 401 West Main in Staunton, Macoupin County. On March 17, 2003, Main filed a petition asking the Board to review the Agency's decision. *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 101.300(b)(2) (Main petition, received after deadline, is deemed filed on postmark date of March 17, 2003), 105.402, 105.406.

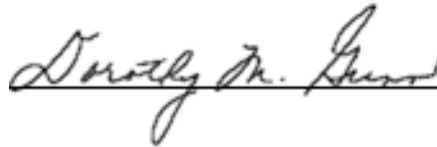
Main asserts that the Agency erred in modifying Main's corrective action plan and in limiting Main's costs that may be reimbursed from the State UST Fund. Petition at 2-3. Main claims that its plan is reasonable and meets all legal requirements, and that its costs of implementing the plan are eligible for Fund reimbursement. *Id.* The Board accepts the petition for hearing. Main has the burden of proof. *See* 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 decision. *See* 35 Ill. Adm. Code 105.412. Accordingly, though the Board hearing affords petitioner the opportunity to challenge the Agency's reasons for its decision, information developed after the Agency's decision typically is not admitted at hearing or considered by the Board. *See Alton Packaging Corp. v. PCB*, 162 Ill. App. 3d 731, 738, 516 N.E.2d 275, 280 (5th Dist. 1987); *see also Community Landfill Co. & City of Morris v. IEPA*, PCB 01-170 (Dec. 6, 2001), *aff'd sub nom.* 331 Ill. App. 3d 1056, 772 N.E.2d 231 (3d Dist. 2002).

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 Main may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Main may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is July 17, 2003 (the 120th day after the March 19, 2003 receipt of Main'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 decision by April 18, 2003, which is 30 days after the Board received Main's petition. *See* 35 Ill. Adm. Code 105.116, 105.410(a) (record due 30 days after filing of petition unless ordered otherwise). 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. *See* 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