

ILLINOIS POLLUTION CONTROL BOARD
April 17, 2003

SATHER ENTERPRISES, LTD.,)	
)	
Petitioner,)	
)	
v.)	PCB 03-99
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

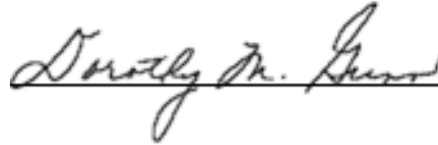
On January 23, 2003, the Board, at the parties' request, extended until April 10, 2003 the time period within which Sather Enterprises, Ltd. (Sather Enterprises) may appeal a December 4, 2002 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.208(a). On April 10, 2003, Sather Enterprises filed a petition asking the Board to review the Agency's determination. The Agency approved the amended site classification plan budget, with modifications, for Sather Enterprises' underground storage tank site located at Route 54 East and Route 150, Farmer City, Dewitt County. Sather Enterprises appeals on the grounds that the Agency's action was arbitrary and capricious. Sather Enterprises' petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

Sather Enterprises 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 Sather Enterprises may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Sather Enterprises may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is August 8, 2003 (the 120th day after April 10, 2003). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for August 7, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by May 10, 2003, which is the first business day following 30 days after Sather Enterprises filed 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 17, 2003, by a vote of 6-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board