

ILLINOIS POLLUTION CONTROL BOARD
May 15, 2003

ILLINOIS AYERS OIL COMPANY,)
)
 Petitioner,)
)
 v.) PCB 03-214
) (UST Appeal)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

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

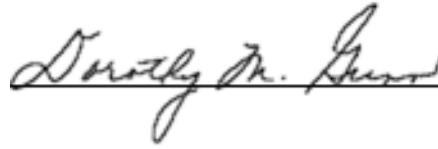
On May 7, 2003, Illinois Ayers Oil Company (Ayers Oil) timely filed a petition asking the Board to review a March 28, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.206(a). Because the postmark date of the petition is within the extended time for filing, the petition was timely filed. 35 Ill. Adm. Code 101.300(b)(2), 105.404, 105.406. At issue is the Agency's approval of the high priority site investigation corrective action plan, with modifications, regarding Illinois Ayers Oil's leaking underground storage tank facility at 310 State Street, Beardstown, Cass County. Ayers Oil appeals on the grounds that the Agency's reasons for rejecting the budget are contrary to both the law and Agency precedent. Ayers Oil's petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

Ayers Oil 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 Ayers Oil may extend by waiver. *See* 35 Ill. Adm. Code 101.308. If the Board fails to take final action by the decision deadline, Ayers Oil may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is September 4, 2003 (the 120th day after May 7, 2003). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for September 4, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by June 6, 2003, 30 days after Ayers Oil 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 May 15, 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