

ILLINOIS POLLUTION CONTROL BOARD
June 5, 2003

DICKEY OIL COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 03-132
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On March 6, 2003, the Board, at the parties' request, extended until May 27, 2003, the time period within which Dickey Oil Company may appeal a January 21, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. On May 28, 2003, Dickey Oil Company filed a petition asking the Board to review the Agency's determination. 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.

The Agency approval of the site classification work plan, with modifications, regarding Dickey Oil Company's underground storage tank site located at 333 West North Avenue, Flora, Clay County. Dickey Oil Company appeals on the grounds that the Agency modification of the plan is unreasonable and inconsistent with generally accepted engineering practices. Dickey Oil Company's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

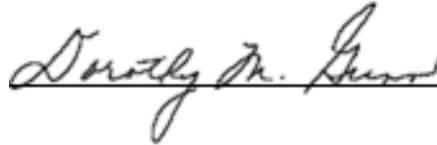
Dickey Oil Company has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2002)), which only Dickey Oil Company may extend by waiver. *See* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Dickey Oil Company may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is September 25, 2003 (the 120th day after May 28, 2003). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for September 18, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by June 27, 2003 which is 30 days after Dickey Oil Company 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 June 5, 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