

ILLINOIS POLLUTION CONTROL BOARD  
July 24, 2003

JIM'S SHELL & MARINE, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 03-193  
 ) (UST - Appeal)  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

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

On May 1, 2003, at the parties' request, the Board extended until July 11, 2003, the time period within which Jim's Shell and Marine may appeal a March 7, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40 (a)(1) (2002); 35 Ill. Adm. Code 105.208(a). On July 11, 2003, Jim's Shell and Marine filed a petition asking the Board to review the Agency's determination. *See* 415 ILCS 5/40(a)(1) (2002).

The Agency excluded certain costs associated with a leak from an underground storage tank (UST) site at located at 1122 North Springfield Street, Virden, Macoupin County. Jim's Shell and Marine appeals on the grounds that the Agency erred in limiting Jim's Shell and Marine costs that may be reimbursed from the State UST Fund. Pet. at 2. Jim's Shell and Marine claims that the costs were reasonable and necessary for the work to be performed. Pet. at 2. Jim's Shell and Marine's petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

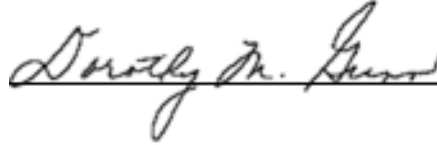
Jim's Shell and Marine has the burden of proof. 415 ILCS 5/40(a)(1) (2002); *see also* 35 Ill. Adm. Code 105.112(a). Hearings "will be based exclusively on the record before the Agency at the time the permit or decision was issued." 35 Ill. Adm. Code 105.214(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2002)), which only Jim's Shell and Marine may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Jim's Shell "may deem the permit issued." 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is November 8, 2003 (the 120th day after July 11 receipt of petition). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for November 6, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by August 11, 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 July 24, 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