

ILLINOIS POLLUTION CONTROL BOARD

October 16, 2003

JO'LYN CORPORATION,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 04-49
	)	(Permit Appeal - Land)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

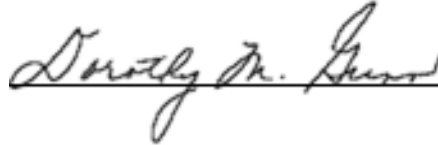
On October 6, 2003, Jo'Lyn Corporation timely filed a petition asking the Board to review a September 9, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.206(a). At issue is the Agency's denial of a request for a permit to store and recycle bituminous shingle material regarding Jo'Lyn Corporation's paving dust suppressant material manufacturing facility in Harvard, McHenry County. Jo'Lyn Corporation appeals on the grounds that the bituminous material is not a waste, so no permit is necessary. Jo'Lyn Corporation's petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

Jo'Lyn Corporation 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 Jo'Lyn Corporation may extend by waiver. *See* 35 Ill. Adm. Code 101.308. If the Board fails to take final action by the decision deadline, Jo'Lyn Corporation "may deem the permit issued." 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is February 3, 2003 (the 120th day after October 6, 2003). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for January 22, 2004.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by November 5, 2003 which is 30 days after Jo'Lyn Corporation 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 October 16, 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