

ILLINOIS POLLUTION CONTROL BOARD
December 4, 2003

KNAPP OIL COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 04-87
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J.P. Novak):

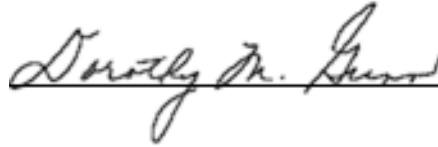
On December 1, 2003, Knapp Oil Company timely filed a petition asking the Board to review an October 24, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.402. Because the postmark date of the petition is within the time for filing, the petition was timely filed. 35 Ill. Adm. Code 101.300(b)(2), 105.404. The Agency rejected the amended high priority corrective action plan budget regarding Knapp Oil Company's underground petroleum storage facility 1117 East 5th Street, Metropolis, Massac County. Knapp Oil Company appeals on the grounds that the Agency determination was without merit and was arbitrary and capricious. Knapp Oil Company's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Knapp 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 Knapp 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, Knapp Oil Company may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is March 30, 2004 (the 120th day after December 1, 2003). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for March 18, 2004.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by December 31, 2003, which is 30 days after Knapp 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 December 4, 2003, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board