

ILLINOIS POLLUTION CONTROL BOARD
January 8, 2004

SWIF-T FOOD MART (IEPA Letter Dated)	
December 1, 2003; December 1, 1995 to)	
November 20, 2001),)	
)	
Petitioner,)	
)	PCB 04-112
v.)	(UST Appeal)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

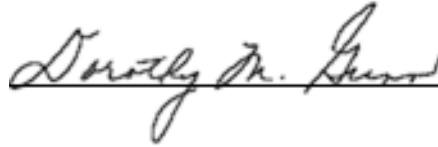
On January 5, 2004, Swif-T Food Mart timely filed a petition asking the Board to review a December 1, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.402. The Agency approved reimbursement of requested corrective action costs, with modifications, regarding Swif-T Food Mart's leaking underground storage tank facility at 1100 Belvidere Road, Waukegan, Lake County. Swif-T Food Mart appeals on the grounds that the Agency's modifications were in error as a matter of law and fact. Swif-T Food Mart's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Swif-T Food Mart 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 Swif-T Food Mart may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Swif-T Food Mart may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is May 4, 2004 (the 120th day after January 5, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for April 15, 2004.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by February 4, 2004, which is 30 days after Swif-T Food Mart 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 January 8, 2004, 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