

ILLINOIS POLLUTION CONTROL BOARD

January 22, 2004

MARTIN OIL MARKETING, LTD.,)	
)	
Petitioner,)	
)	
v.)	PCB 04-68
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by G.T. Girard):

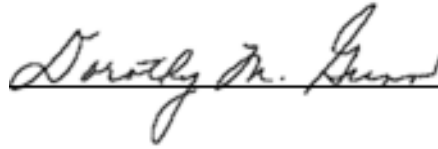
On November 6, 2003, the Board, at the parties' request, extended until January 15, 2004, the time period within which Martin Oil Marketing, LTD. (Martin Oil), may appeal a September 10, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. On January 14, 2004, Martin Oil filed a petition asking the Board to review the Agency's determination. The Agency deducted certain costs from reimbursement from the Underground Storage Tank Fund regarding an underground storage tank site at 8199 South Ashland Avenue, Chicago, Cook County. Martin Oil appeals on the grounds that the Agency's rejection of line item amendments to a previously-approved budget associated with a previously-approved corrective action plan is unreasonable, arbitrary and not in accordance with the law. Martin Oil's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Martin Oil 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 Martin Oil may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Martin Oil may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is May 14, 2004 (the 120th day after January 14, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for May 6, 2004.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by February 17, 2004, which is 30 days after Martin Oil 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 22, 2004, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board