

ILLINOIS POLLUTION CONTROL BOARD  
February 5, 2004

CIRCLE C, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 04-131
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

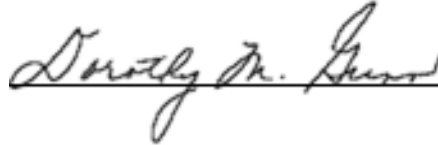
On January 26, 2004, Circle C, Inc. (Circle C) timely filed a petition asking the Board to review a December 26, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.402. The Agency approved reimbursement of requested costs of corrective action, with modifications, regarding Circle C's underground storage tank facility at 910 South State Street, Jerseyville, Jersey County. Circle C appeals on the grounds that (1) the request for reimbursement was deemed approved by operation of law because the Agency did not render its decision within 120 days of when the Agency received the request; and (2) the Agency's determination did not provide sufficient information to aid Circle C in understanding the costs deemed unreasonable and the basis for the determination. *See* 415 ILCS 5/57.8(a)(1) (2002); 35 Ill. Adm. Code 732.602(e). Circle C's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Circle C 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 Circle C may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Circle C may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is April 24, 2004 (the 120th day after January 26, 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 25, 2004, which is 30 days after Circle C 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 February 5, 2004, by a vote of 4-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board