

ILLINOIS POLLUTION CONTROL BOARD

April 1, 2004

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| ILLINOIS STATE TOLL HIGHWAY |) | |
| AUTHORITY (Des Plaines South), |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 04-103 |
| |) | (UST Appeal) |
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Respondent. |) | |

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

On January 8, 2004, the Board, at the parties' request, extended until March 24, 2004 the time period within which the Illinois State Toll Highway Authority may appeal a November 18, 2003 determination of the Illinois Environmental Protection Agency (Agency). See 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. On March 23, 2004, the Illinois State Toll Highway Authority filed a petition asking the Board to review the Agency's determination. The Agency approved petitioner's high priority corrective action plan, with modifications, with modifications, for the Illinois State Toll Highway Authority's leaking underground petroleum storage tank facility located at mile post 4.5 on the east bound Northwest Tollway, Des Plaines, Cook County.

The Illinois State Toll Highway Authority appeals on the grounds that the costs submitted to the Agency were demonstrated as reasonable and necessary to execute the approved corrective action plan, and the Agency erroneously apportioned the costs. The Illinois State Toll Highway Authority's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

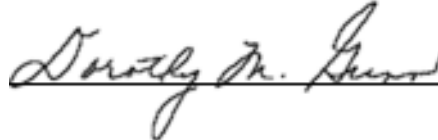
The Illinois State Toll Highway Authority has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (see 415 ILCS 5/40(a)(2) (2002)), which only the Illinois State Toll Highway Authority may extend by waiver (see 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, the Illinois State Toll Highway Authority may deem its request granted. See 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is July 20, 2004 (the 120th day after March 23, 2004). See 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for July 8, 2004.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by April 22, 2004, which is 30 days after the Illinois State Toll

Highway Authority 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 April 1, 2004, by a vote of 4-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board