

ILLINOIS POLLUTION CONTROL BOARD
April 15, 2004

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| ILLINOIS STATE TOLL HIGHWAY |) | |
| AUTHORITY (Des Plaines South), |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 04-119 |
| |) | (UST Appeal) |
| |) | |
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Respondent. |) | |

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

On January 22, 2004, the Board, at the parties' request, extended until April 7, 2004, the time period within which Illinois State Toll Highway Authority may appeal a December 4, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. On April 7, 2004, Illinois State Toll Highway Authority filed a petition asking the Board to review the Agency's determination. The Agency rejected petitioner's high priority corrective action plan for Illinois State Toll Highway Authority's leaking underground petroleum storage tank facility located at Northwest Tollway (I-90), eastbound at mile post 4.5, Des Plaines, Cook County.

Illinois State Toll Highway Authority appeals on the grounds that the high priority corrective action completion report was completed and complied with applicable requirements, and the site has been remediated to a level that protects human health and the environment and does not exceed applicable requirements. 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.

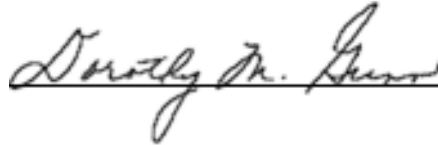
Illinois State Toll Highway Authority has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2002)), which only 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, Illinois State Toll Highway Authority may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is August 5, 2004 (the 120th day after April 7, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for August 5, 2004.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by May 7, 2004, which is 30 days after 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 15, 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