

ILLINOIS POLLUTION CONTROL BOARD
November 4, 2004

WISEMAN/PJ'S SHORTSTOP,)	
)	
Petitioner,)	
)	
v.)	PCB 05-77
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On November 1, 2004, Wiseman/PJ's Shortstop timely filed a petition asking the Board to review a September 29, 2004 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 petitioner's high priority corrective action plan budget, with modifications, for Wiseman/PJ's Shortstop's leaking underground petroleum storage tank facility located at Illinois Route 1 and U.S. Highway 36, Chrisman, Edgar County.

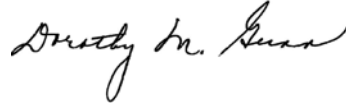
Wiseman/PJ's Shortstop appeals on the grounds that the costs as submitted to the Agency were reasonable, justifiable, necessary, consistent with generally accepted engineering practices, and eligible for reimbursement, and the Agency's failure to approve the costs as submitted was arbitrary and unreasonable. Wiseman/PJ's Shortstop's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Wiseman/PJ's Shortstop 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 Wiseman/PJ's Shortstop may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Wiseman/PJ's Shortstop may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is February 28, 2005 (the 120th day after November 1, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for February 17, 2005.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by December 1, 2004, which is 30 days after Wiseman/PJ's Shortstop 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 November 4, 2004, by a vote of 5-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board