

ILLINOIS POLLUTION CONTROL BOARD

November 4, 2004

ROBERT AND TONY THOMPSON,)	
)	
Petitioner,)	
)	
v.)	PCB 05-72
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by T.E. Johnson):

On October 20, 2004, Robert and Tony Thompson (Thompsons) filed a petition asking the Board to review a September 15, 2004 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.404. At issue is the Agency's denial of the Thompson's corrective action plan for their property containing leaking underground storage tanks at 4th and Jefferson, Cairo in Alexander County.

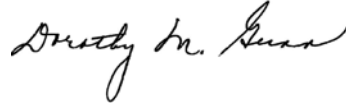
The Thompsons appeal on the grounds that the corrective action activities are necessary, and that the Agency's determination contains no additional information that could aid the Thompsons in setting forth further grounds for appeal. The Thompsons' petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

The Thompsons have 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 Thompsons may extend by waiver. *See* 35 Ill. Adm. Code 101.308. If the Board fails to take final action by the decision deadline, the Thompsons may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is February 18, 2005 (the 120th day after October 20, 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 November 22, 2004, which is the first business day following 30 days after the Thompsons 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, reading "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board