

ILLINOIS POLLUTION CONTROL BOARD
February 17, 2005

MCLEAN COUNTY ASPHALT,)
)
 Petitioner,)
)
 v.) PCB 05-154
) (UST Appeal)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by G.T. Girard):

On February 14, 2005, McLean County Asphalt timely filed a petition asking the Board to review a January 6, 2005 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.402. Because the postmark date of the petition is within the time for filing, the petition was timely filed. 35 Ill. Adm. Code 101.300(b)(2), 105.404. The Agency rejected the site classification work plan budget for McLean County Asphalt's leaking underground petroleum storage tank facility located at 1100 West Market Street, Bloomington, McLean County.

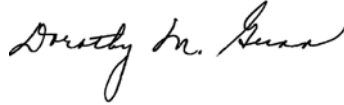
McLean County Asphalt appeals on the grounds that the Agency's adjustments and failure to specify which tasks and costs it deems to be unreasonable are arbitrary and unreasonable, and that the January 6, 2005 determination is the "true final action" timely appealed here. McLean County Asphalt's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

McLean County Asphalt 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 McLean County Asphalt may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, McLean County Asphalt may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is June 14, 2005 (the 120th day after February 14, 2005). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for June 2, 2005.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by March 16, 2005, which is 30 days after McLean County Asphalt 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 17, 2005, by a vote of 4-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board