

ILLINOIS POLLUTION CONTROL BOARD
March 3, 2005

MIDWEST PETROLEUM COMPANY,)
)
Petitioner,)
)
v.) PCB 05-155
) (UST Appeal)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by N.J. Melas):

On February 16, 2005, Midwest Petroleum Company (Midwest Petroleum) timely filed a petition asking the Board to review a January 11, 2005 determination of the Illinois Environmental Protection Agency (Agency), received by Midwest Petroleum on January 17, 2005. *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.404.

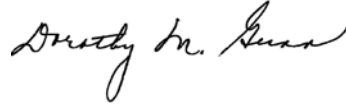
The Agency denied certain costs contained in Midwest Petroleum's application for payment from the Underground Storage Tank Fund (UST) regarding an underground storage tank site 529 Maple Street, St. Clair County. Midwest Petroleum appeals on the grounds that the contested costs in its application for payment were reasonable, justifiable, necessary, consistent with generally accepted engineering practices, and eligible for reimbursement from the UST Fund. Midwest Petroleum's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Midwest Petroleum 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 Midwest Petroleum may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Midwest Petroleum may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is June 16, 2005 (the 120th day after February 16, 2005). *See* 35 Ill. Adm. Code 105.114. A Board meeting is scheduled on the date of the current decision deadline, June 16, 2005.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by March 18, 2005, which is 30 days after Midwest Petroleum 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 March 3, 2005, by a vote of 5-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board