

ILLINOIS POLLUTION CONTROL BOARD

April 21, 2005

U.S. MINERALS, LLC,)	
)	
Petitioner,)	
)	
v.)	PCB 05-182
)	(Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On April 6, 2005, U.S. Minerals, LLC (U.S. Minerals) timely filed a petition asking the Board to review a March 2, 2005 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.206(a). The Agency granted an air permit, with conditions, regarding U.S. Minerals' coal combustion by-products facility at 796 CIPS Trail, Coffeen, Montgomery County.

U.S. Minerals appeals on the grounds that (1) the added conditions 7, 9, and 11.a are not necessary to accomplish the purposes of the Environmental Protection Act (Act) (415 ILCS 5 (2002)); (2) condition 14 imposes an unreasonable burden on U.S. Minerals and is not supported by the Agency record; (3) conditions 9, 13, 14, 15, 16, and 17 impose a significant burden on U.S. Minerals that would not result in reduction of emissions and are not necessary to accomplish the purposes of the Act; and (4) the closing paragraphs of the permit are inaccurate and improper to include in the permit. U.S. Minerals' petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

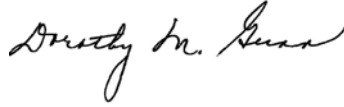
U.S. Minerals has the burden of proof. 415 ILCS 5/40(a)(1) (2002); *see also* 35 Ill. Adm. Code 105.112(a). Hearings "will be based exclusively on the record before the Agency at the time the permit or decision was issued." 35 Ill. Adm. Code 105.214(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2002)), which only U.S. Minerals may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, U.S. Minerals "shall be entitled to an Appellate Court order pursuant to subsection (d) of Section 41 of this Act [415 ILCS 5/41(d) (2002)]." 415 ILCS 5/40(a)(3) (2002). Currently, the decision deadline is August 4, 2005 (the 120th day after April 6, 2005). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for August 4, 2005.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by May 6, 2005, which is 30 days after U.S. Minerals filed the petition. 35 Ill. Adm. Code 105.212(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 105.212(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 21, 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