

ILLINOIS POLLUTION CONTROL BOARD

August 18, 2005

WILLIAM BREUER,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 06-25
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

On August 12, 2005, William Breuer timely filed a petition asking the Board to review a July 6, 2005 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2004); 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 approved the third amended high priority corrective action plan, with modifications, for William Breuer's leaking underground petroleum storage tank facility located at Highway 177 & Hoyleton-Hoffman Road, Hoyleton, Washington County.

William Breuer appeals on the grounds that the third amended high priority corrective action plan was consistent with the corrective action plan originally approved by the Agency, the costs associated with amendment of the corrective action plan are not "excessive activities" and should be approved by the Agency, the Agency modifications to the budget do not relate to the approved means of remediation, and the Agency modifications to the budget are unreasonable, arbitrary, and capricious. William Breuer's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

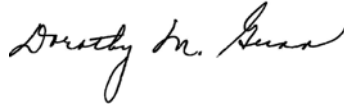
William Breuer has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2004)), which only William Breuer may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, William Breuer may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2004). Currently, the decision deadline is December 10, 2005 (the 120th day after August 12, 2005). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for December 1, 2005.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by September 11, 2005, which is 30 days after William Breuer 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 August 18, 2005, by a vote of 4-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board