

ILLINOIS POLLUTION CONTROL BOARD

September 1, 2005

MIDWEST PETROLEUM COMPANY,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 06-28
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

On August 25, 2005, Midwest Petroleum Company timely filed a petition asking the Board to review a July 18, 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 rejected the amended corrective action plan budget for Midwest Petroleum Company's leaking underground petroleum storage tank facility located at 529 Maple Street, Shiloh, St. Clair County.

Midwest Petroleum Company appeals on the grounds that the amounts submitted for Agency approval in the amended budget were reasonable, justifiable, necessary, consistent with generally accepted engineering practices, and eligible for reimbursement out of the Underground Petroleum Storage Tank Fund. Midwest Petroleum Company's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

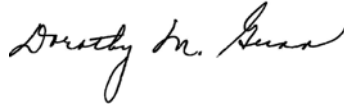
Midwest Petroleum Company has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2004)), which only Midwest Petroleum Company 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 Company may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2004). Currently, the decision deadline is December 23, 2005 (the 120th day after August 25, 2005). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for December 15, 2005.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by September 24, 2005 which is 30 days after Midwest Petroleum Company 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 September 1, 2005, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board