

ILLINOIS POLLUTION CONTROL BOARD
October 20, 2005

KNAPP OIL COMPANY, DON'S 66,)	
)	
Petitioner,)	
)	
v.)	PCB 06-52
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On October 17, 2005, Knapp Oil Company timely filed a petition asking the Board to review a September 21, 2005 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2004); 35 Ill. Adm. Code 105.402. The Agency rejected the high priority corrective action plan and associated budget for Knapp Oil Company's leaking underground petroleum storage tank facility located at 700 East Main Street, Olney, Richland County.

Knapp Oil Company appeals on the grounds that (1) the reasons stated by the Agency for rejection are contradictory to information previously provided, are internally inconsistent, and exceeded the Agency's authority; (2) the high priority corrective action plan and budget submitted to the Agency are reasonable and consistent with the Environmental Protection Act and applicable regulations; and (3) the Agency's rejection was arbitrary, capricious, and for the sole purpose of harassing Knapp Oil Company and its consultants. Knapp Oil Company's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

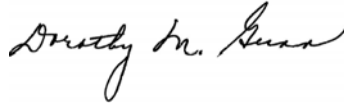
Knapp Oil Company has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2004)), which only Knapp Oil Company may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Knapp Oil Company may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2004). Currently, the decision deadline is February 14, 2006 (the 120th day after October 17, 2005). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for February 2, 2006.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by November 16, 2005, which is 30 days after Knapp Oil 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 October 20, 2005, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board