

ILLINOIS POLLUTION CONTROL BOARD

December 15, 2005

DOWNTOWN SHELL (Greenville),)	
)	
Petitioner,)	
)	
v.)	PCB 06-38
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by G.T. Girard):

On September 15, 2005, the Board, at the parties' request, extended until December 9, 2005, the time period within which Downtown Shell may appeal an August 5, 2005 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2004); 35 Ill. Adm. Code 105.406. On December 7, 2005, Downtown Shell filed a petition asking the Board to review the Agency's determination. The Agency rejected the high priority corrective action plan for Downtown Shell's leaking underground petroleum storage tank facility located at 317 West College Avenue, Greenville, Bond County.

Downtown Shell appeals on the grounds that it had provided all information that the Agency later requested on its proposed bioremediation slurry, and the Agency denial of August 5, 2005 recited no reason beyond its request for information why it disapproved a remediation technology (bioremediation) that it had previously approved. Downtown Shell's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

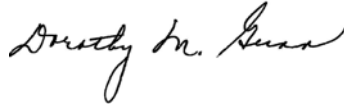
Downtown Shell has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2004)), which only Downtown Shell may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Downtown Shell may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2004). Currently, the decision deadline is April 6, 2006 (the 120th day after December 7, 2005). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for April 6, 2006.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by January 5, 2006, which is 30 days after Downtown Shell 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 December 15, 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