

ILLINOIS POLLUTION CONTROL BOARD

December 15, 2005

E & L TRUCKING COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 06-50
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by T.E. Johnson):

On October 11, 2005, E & L Trucking Company (E & L) filed a petition asking the Board to review a September 14, 2005 determination of the Illinois Environmental Protection Agency (Agency). In its determination, the Agency found E & L's application for reimbursement incomplete. The application concerns E & L's leaking underground petroleum storage tank facility located at 12625 Hamlin Court, Cook County.

On November 3, 2005, the Board issued an order partially granting an Agency motion to dismiss the petition. In the order, the Board accepted the matter as timely filed, pursuant to 35 Ill. Adm. Code 105.404, but found the petition deficient. The Board directed E & L to file an amended petition on or before December 3, 2005.

On December 2, 2005, E & L filed an amended petition for review. In the petition, E & L appeals on the grounds that the Agency's decision is arbitrary, capricious, and exceeding its statutory and regulatory authority to conduct a full review of the application for reimbursement submitted by E & L. In the petition, E & L acknowledges service of the Agency's final decision on September 16, 2005. E & L's amended petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

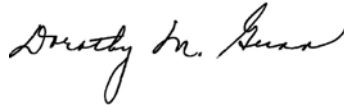
E & L has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2004)), which only E & L may extend by waiver. *See* 35 Ill. Adm. Code 101.308. If the Board fails to take final action by the decision deadline, E & L may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2004).

The filing of the amended petition restarted the Board's decision deadline. *See* 35 Ill. Adm. Code 105.114(b). Accordingly, the decision deadline is April 3, 2006 (the first business day following the 120th day after December 2, 2005). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for March 16, 2006.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by January 3, 2006, the first business day 30 days after E & L 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