

ILLINOIS POLLUTION CONTROL BOARD

January 5, 2006

BASIC WIRE & CABLE COMPANY,)
)
 Petitioner,)
)
 v.) PCB 06-91
) (UST Appeal)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by A.S. Moore):

On December 13, 2005, Basic Wire & Cable Company (BWC) timely filed a petition asking the Board to review a November 8, 2005 determination of the Illinois Environmental Protection Agency (Agency). 415 ILCS 5/40(a)(1) (2004); 35 Ill. Adm. Code 105.404. The Agency rejected BWC's corrective action completion report regarding an underground storage tank site at 3900 N. Rockwell St. in Chicago, Cook County. BWC appeals on the grounds that the Agency is attempting to apply proposed rules that have not been promulgated; that BWC should not be required to investigate and delineate soil contamination where contamination is already addressed by an existing groundwater ordinance institutional control; and that there is no regulatory basis stated in the Agency's November 8, 2005 rejection. BWC's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

BWC 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 (415 ILCS 5/40(a)(2) (2004)), which only BWC may extend by waiver. 35 Ill. Adm. Code 101.308.

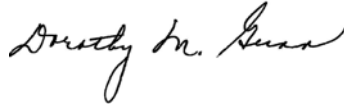
This is the second of two appeals BWC has filed concerning this site. On December 19, 2005, BWC preemptively waived its statutory decision deadline in PCB 06-91 in the event that the Board should accept the December 13, 2005 petition for hearing. In the earlier-filed case, BWC petitioned for review of the Agency's April 11, 2005 rejection of an earlier corrective action completion report for this site. *See Basic Wire & Cable Co. v. IEPA*, PCB 05-198 (Sept. 1, 2005). BWC has waived its decision deadline in PCB 05-198 to June 14, 2006 and states that it waives the deadline in this case, PCB 06-91, in order for the two to proceed congruently. The Board meeting now immediately before the decision deadline is scheduled for June 1, 2006.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by January 11, 2006, which is 30 days after BWC 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 January 5, 2006, by a vote of 4-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board