

ILLINOIS POLLUTION CONTROL BOARD
March 2, 2006

RICHARD GOODEN,)	
)	
Petitioner,)	
)	
v.)	PCB 06-139
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On February 23, 2006, Richard Gooden timely filed a petition asking the Board to review a January 20, 2006 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 corrective action plan budget for Richard Gooden's leaking underground petroleum storage tank facility located at 149 North Railroad Avenue, Paxton, Ford County.

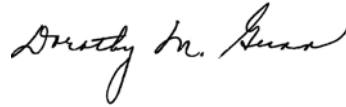
Richard Gooden appeals on the grounds that (1) the method used to break down the costs is a method that the Agency has approved in the past; (2) the Agency rejection of Richard Gooden's budget is arbitrary and capricious; (3) the costs rejected are at a level previously acknowledged by the Agency as reasonable; and (4) the methods of computation used to derive certain of the costs are those acknowledged as acceptable by the Agency. Richard Gooden's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Richard Gooden 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 Richard Gooden may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Richard Gooden may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2004). Currently, the decision deadline is June 23, 2006 (the 120th day after February 23, 2006). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for June 15, 2006.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by March 25, 2006, which is 30 days after Richard Gooden 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 March 2, 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