

ILLINOIS POLLUTION CONTROL BOARD
March 16, 2006

BIGGS BROTHERS SERVICE CENTER,)	
)	
Petitioner,)	
)	
v.)	PCB 06-88
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On December 15, 2005, at the parties' request, the Board extended until March 9, 2006, the time period for Biggs Brothers Service Center (Biggs Brothers) to appeal a November 3, 2005 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2004); 35 Ill. Adm. Code 101.300(b), 105.402, 105.406. On March 13, 2006, Biggs Brothers filed a petition asking the Board to review the Agency's determination. Because the postmark date of the petition is within the extended time for filing, the petition was timely filed. 35 Ill. Adm. Code 101.300(b)(2), 105.404. The Agency rejected the revised amended high priority corrective action plan and associated budget for Biggs Brothers' leaking underground petroleum storage tank facility located at 2540 Kingshighway, Fairmont City, St. Clair County.

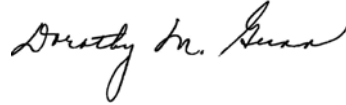
Biggs Brothers' petition asserts, in essence, that the Agency rejection of the plan and associated budget was improper, and contrary to law and fact. Biggs Brothers' petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Biggs Brothers 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 Biggs Brothers may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Biggs Brothers may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2004). Currently, the decision deadline is July 11, 2006 (the 120th day after March 13, 2006). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for July 6, 2006.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by April 12, 2006, which is 30 days after Biggs Brothers 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 16, 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