## ILLINOIS POLLUTION CONTROL BOARD October 19, 2006

ESTATE OF WILLIAM EGGERT,	)	
Petitioner,	) ) )	
V.	) )	PCB 07-22 (UST Appeal)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	(USI Appeal)
	)	
Respondent.	)	

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

On October 5, 2006, the Estate of William Eggert (the Estate) timely filed a petition asking the Board to review an August 31, 2006, determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2004); 35 Ill. Adm. Code 105.404. The Agency determined that the Estate's underground storage tank (UST) incident is not subject to Title XVI of the Environmental Protection Act (Act) (415 ILCS 5/57-57.17 (2004)) or 35 Ill. Adm. Code 731. Specifically, the Agency determined that, since the Estate's UST system was removed more than five years before reporting the incident, the Agency could not confirm that contamination at the Estate's site resulted from that system. The Agency's determination concerns a UST site located at 3917 South California in Chicago, Cook County.

The Estate appeals on the grounds that the UST incident is subject to Title XVI of the Act and 35 Ill. Adm. Code 731. The Estate's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

The Estate 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 the Estate may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, the Estate may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2004). Currently, the decision deadline is February 2, 2007 (the 120th day after the Estate filed its petition). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for February 1, 2007.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by Monday, November 6, 2006, which is the first business day after the 30th day after the Estate filed its 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 October 19, 2006, by a vote of 4-0.

Driverty Mr. Sunn

Dorothy M. Gunn, Clerk Illinois Pollution Control Board