

ILLINOIS POLLUTION CONTROL BOARD  
November 1, 2007

NOKOMIS OIL COMPANY,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 08-31
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

On October 17, 2007, Nokomis Oil Company (Nokomis Oil) timely filed a petition asking the Board to review a September 10, 2007 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2006); 35 Ill. Adm. Code 105.402, 105.404. The Agency rejected the proposed corrective action plan and budget for Nokomis Oil's leaking underground petroleum storage tank facility located at 100 South Hickory, Nokomis, Montgomery County.

Nokomis Oil appeals on the grounds that the Agency's denial of Nokomis Oil's corrective action plan was erroneous, not supported by the evidence, arbitrary, and capricious, also making the denial of the budget associated with the plan erroneous, arbitrary, capricious, and contrary to law. Nokomis Oil's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Nokomis Oil has the burden of proof. *See* 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. *See* 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) (2006)), which only Nokomis Oil may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Nokomis Oil may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2006). On October 29, 2007, Nokomis Oil filed an open waiver of the decision deadline.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by November 16, 2007, which is 30 days after Nokomis Oil filed the petition. *See* 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. *See* 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, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 1, 2007, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish at the end.

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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board