

ILLINOIS POLLUTION CONTROL BOARD  
December 20, 2007

DAVE MCGHEE, )  
 )  
 Petitioner, )  
 )  
 v. ) PCB 08-36  
 ) (UST Appeal)  
 ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Respondent. )

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


On December 5, 2007, Dave McGhee timely filed a petition (Pet.) asking the Board to review a November 1, 2007 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2006); 35 Ill. Adm. Code 105.404. The Agency modified the corrective action budget regarding an underground storage tank site at 112 North Sycamore Street, Villa Grove, Douglas County. Mr. McGhee appeals on the grounds that “[i]t was bad faith, arbitrary and capricious of the Agency to reject Petitioner’s Budget proposal based upon an alleged lack of a detailed breakdown of all hours associated with each task, given the level of detail stated in the proposed Budget.” Pet. at 4. Mr. McGhee also appeals on the grounds that “[i]t was bad faith, arbitrary and capricious of the Agency to reject Petitioner’s Budget proposal based upon the Agency’s objection to an alleged lack of detail when the Agency has approved this same level of hourly breakdown of tasks for other projects.” *Id.* Mr. McGhee’s petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Mr. McGhee 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) (2006)), which only Mr. McGhee may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Mr. McGhee may deem his request granted. *See* 415 ILCS 5/40(a)(2) (2006). Currently, the decision deadline is April 3, 2008, the 120th day after December 5, 2007. *See* 35 Ill. Adm. Code 105.114. A Board meeting is scheduled for April 3, 2008.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by January 4, 2008, which is 30 days after Mr. McGhee 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, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 20, 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 extending to the right.

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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board