

ILLINOIS POLLUTION CONTROL BOARD  
September 7, 2006

|                              |   |              |
|------------------------------|---|--------------|
| FEDEX GROUND PACKAGE SYSTEM, | ) |              |
| INC.,                        | ) |              |
|                              | ) |              |
| Petitioner,                  | ) |              |
|                              | ) |              |
| v.                           | ) | PCB 07-12    |
|                              | ) | (UST Appeal) |
| ILLINOIS ENVIRONMENTAL       | ) |              |
| PROTECTION AGENCY,           | ) |              |
|                              | ) |              |
| Respondent.                  | ) |              |

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

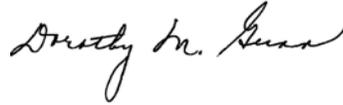
On August 21, 2006, Fedex Ground Package System, Inc. (Fedex) timely filed a petition asking the Board to review a July 17, 2006 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2004); 35 Ill. Adm. Code 105.404. The Agency rejected a proposed amended budget regarding an underground storage tank site at 6767 West 75th Street, Bedford Park, Cook County. Fedex appeals on the grounds that the Board regulations cited by the Agency as its basis for rejecting its amended budget do not apply and that the Agency's interpretation is contrary to the Board's regulations read in their entirety and to their statutory basis in the Environmental Protection Act (415 ILCS 5/1 *et seq.* (2004)). Fedex's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing. The Board notes the Agency filed a motion for summary judgment on September 1, 2006, and reserves ruling on that motion.

Fedex 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 Fedex may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Fedex may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2004). Currently, the decision deadline is December 19, 2006, the 120th day after August 21, 2006. *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for December 7, 2006.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by Wednesday, September 20, 2006, which is 30 days after Fedex 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). The Board notes that the Agency filed the administrative record on September 1, 2006.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 7, 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