

ILLINOIS POLLUTION CONTROL BOARD
January 9, 2003

BARRY AMOCO, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 03-34
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

The Board accepts for hearing Barry Amoco, Inc.'s (Amoco) timely filed petition appealing the Environmental Protection Agency's (Agency) decision. The Agency modified and conditionally approved Amoco's Site Classification Work Plan and modified the proposed budget for the site classification plan regarding an underground storage tank site at Route 106 and Rogers in Pike County. Amoco appeals on the grounds that the Agency's modifications to the site classification plan and the budget for the site classification plan were arbitrary and capricious. Amoco's petition meets the content requirements of 35 Ill. Adm. Code 105.408.

On October 3, 2001, the Board, at the parties' request, extended until December 31, 2002, the time period within which Amoco may appeal an August 28, 2001 determination of the Agency. *See* 415 ILCS 5/40(a)(1) (2000 *amended by* P.A. 92-0574, eff. June 26, 2002; 35 Ill. Adm. Code 105.406. On December 30, 2002, Amoco filed a petition asking the Board to review the Agency's determination.

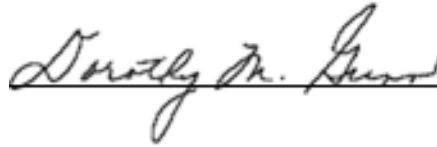
Amoco has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002), which only Amoco may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Amoco may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2000 *amended by* P.A. 92-0574, eff. June 26, 2002). Currently, the decision deadline is April 29, 2003 (the 120th day after December 30, 2002). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for April 17, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by January 29, 2003, which is 30 days after Amoco 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 January 9, 2003, by a vote of 5-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a solid horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board