

ILLINOIS POLLUTION CONTROL BOARD  
November 2, 2006

VILLAGE OF WILMETTE,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 07-27
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by G.T. Girard):

On October 23, 2006, the Village of Wilmette (Wilmette) timely filed a petition asking the Board to review a September 12, 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, citing its previous issuance of a No Further Remediation (NFR) letter for the site, rejected the High Priority Corrective Action Plan budget amendment request regarding an underground storage tank site at 720 Ridge Road County.

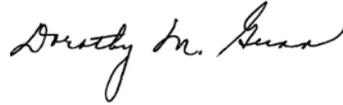
Wilmette appeals on the ground that it was arbitrary and capricious of the Agency to reject the budget proposal, which was less than previous approved amounts. Wilmette's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing. The Board notes that, although the Agency may have declined to recommend grant of a 90-day extension of the appeal period, by statute the Agency is the party respondent in this action. (See Petition, para. 5 at p. 2).

Wilmette 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 Wilmette may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Webb may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2004). Currently, the decision deadline is February 20, 2007, the 120th day after October 23, 2006. *See* 35 Ill. Adm. Code 105.114. The Board has scheduled a regular meeting for the date of February 15, 2007.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by Wednesday, November 22, 2006, which is the first business day after the 30th day after Wilmette 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 November 2, 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