

ILLINOIS POLLUTION CONTROL BOARD
March 5, 2009

JOHNSON OIL COMPANY, LLC)	
)	
Petitioner,)	
)	
v.)	PCB 09-61
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On February 17, 2009, Johnson Oil Company, LLC (Johnson Oil) filed a petition asking the Board to review a January 9, 2009 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2006); 35 Ill. Adm. Code 105.404. Because the postmark date of the petition is within the extended time for filing, the petition was timely filed. 35 Ill. Adm. Code 101.300(b)(2), 105.404.

The Agency denied portions of Johnson Oil's High Priority Correction Action Plan Budget (HPCAP Budget) regarding an underground storage tank site at 851 East Main Street, Danville, Vermilion County. Johnson Oil appeals on the grounds that the Agency's determination unreasonably reduced Johnson Oil's HPCAP Budget expenses in a manner inconsistent with 35 Ill. Adm. Code 732.505 and 732.605. Johnson Oil's petition meets the content requirements of 35 Ill. Adm. Code 105.408.

Johnson Oil 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 Johnson Oil may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Johnson Oil may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2006). Currently, the decision deadline is June 17, 2009 (the first business day which is 120 days after Johnson Oil filed its petition). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for June 4, 2009.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by March 19, 2009 (30 days after Johnson Oil filed its 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 Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 5, 2009, by a vote of 5-0.

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

John Therriault, Assistant Clerk
Illinois Pollution Control Board