

ILLINOIS POLLUTION CONTROL BOARD  
May 1, 2003

VILLAGE OF KARNAK	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 03-114
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

On February 6, 2003, at the parties' request, the Board extended until April 23, 2003, the time period for Village of Karnak (Karnak) to appeal a December 19, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 101.300(b), 105.402, 105.406. On April 29, 2003, Karnak filed a petition asking the Board to review the Agency's determination. *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.402, 105.406. 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.

At issue is the Agency approval of the site classification completion report, with modifications, regarding Karnak's Underground Storage Tank (UST) site at 308 Washington Street, Karnak, Pulaski County. The Agency excluded certain costs for investigation, analysis, personnel, and handling charges. Karnak appeals on the grounds that the Agency erred in limiting Karnak's costs that may be reimbursed from the State UST Fund. Petition at 2-3. Karnak claims that the costs were reasonable and necessary for the work to be performed. Petition at 2-3. Karnak's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

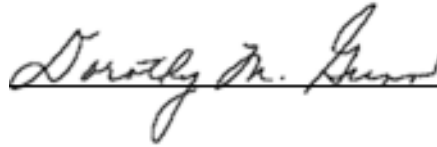
Karnak has the burden of proof. 415 ILCS 5/40(a)(1) (2002); *see also* 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2002)), which only Karnak may extend by waiver. *See* 35 Ill. Adm. Code 101.308. If the Board fails to take final action by the decision deadline, Karnak may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is August 27, 2003 (the 120th day after the April 29 receipt of Karnak's petition). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for August 21, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by May 29, 2003, which is 30 days after the Board received the petition. 35 Ill. Adm. Code 105.410(a), 105.116. 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 105.410(a), 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 May 1, 2003, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board