

ILLINOIS POLLUTION CONTROL BOARD
February 6, 2003

MIDWEST PETROLEUM COMPANY d/b/a)
GODFREY SUNOCO,)
)
Petitioner,)
)
v.) PCB 03-59
) (UST Appeal)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

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

On November 7, 2002, the Board, at the parties' request, extended until January 28, 2003, the time period within which Midwest Petroleum Company d/b/a Godfrey Sunoco (Godfrey Sunoco) may appeal a September 25, 2002 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. On January 27, 2003, Godfrey Sunoco placed in the U.S. mail a petition asking the Board to review the Agency's determination. The Board received the petition on January 29, 2003. Because the petition was placed in the U.S. mail before January 28, 2003, the petition was timely filed. 35 Ill. Adm. Code 101.300(b)(2).

The Agency modified the proposed budget for the high priority corrective action plan regarding a leaking underground storage tank site at 5405 Godfrey Road in Godfrey, Madison County. Godfrey Sunoco appeals on the grounds that the Agency's downward adjustment of the proposed budget was contrary to the law and Agency precedent. Godfrey Sunoco's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

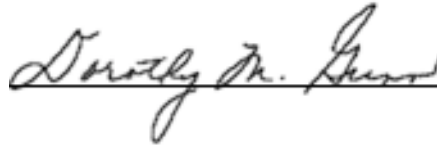
Godfrey Sunoco has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2002)), which only Godfrey Sunoco may extend by waiver. *See* 35 Ill. Adm. Code 101.308. If the Board fails to take final action by the decision deadline, Godfrey Sunoco may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is May 29, 2003 (the 120th day after January 29, 2003). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for May 15, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by February 26, 2003, which is 30 days after Godfrey Sunoco 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 February 6, 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