

ILLINOIS POLLUTION CONTROL BOARD

July 10, 2003

ESTATE OF OLIVIA TYBERENDT,)	
)	
Petitioner,)	
)	
v.)	PCB 03-237
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

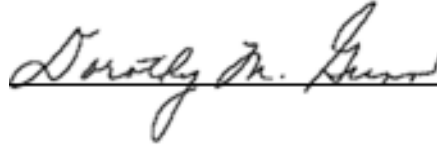
On June 30, 2003, the Estate of Olivia Tyberendt (Tyberendt) timely filed a petition asking the Board to review a May 27, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.402. At issue is the Agency's approval of reimbursement of requested corrective action costs, with modifications, regarding Tyberendt's underground storage tank facility at 15309 Boulder Road, Carlyle, Clinton County. Tyberendt appeals on the grounds that the Agency determination was erroneous. Tyberendt's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Tyberendt 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 Tyberendt may extend by waiver. *See* 35 Ill. Adm. Code 101.308. If the Board fails to take final action by the decision deadline, Tyberendt may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is October 28, 2003 (the 120th day after June 30, 2003). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for October 16, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by July 30, 2003 which is 30 days after Tyberendt 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 July 10, 2003, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board