

ILLINOIS POLLUTION CONTROL BOARD

January 8, 2004

ETHYL PETROLEUM ADDITIVES, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 04-113
)	(Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J.P. Novak):

On January 5, 2004, Ethyl Petroleum Additives, Inc. (Ethyl Petroleum Additives) timely filed a petition asking the Board to review a December 1, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.206(a). Because the postmark date of the joint request is within the extended time for filing, the petition was timely filed. 35 Ill. Adm. Code 101.300(b)(2), 105.404. The Agency approved the application for a Clean Air Act Permit Program permit, with conditions, regarding Ethyl Petroleum Additives' chemical manufacturing facility at Sauget, St. Claire County. Ethyl Petroleum Additives appeals on the grounds that the permit does not reflect current requirements or operations at the facility, it is not consistent with applicable law and regulations, and certain conditions are not necessary to accomplish the purposes of the Environmental Protection Act (415 ILCS 5 (2002)). Ethyl Petroleum Additives' petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

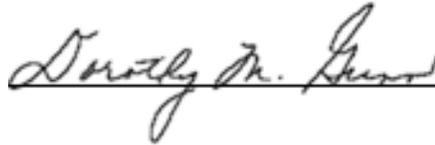
Ethyl Petroleum Additives has the burden of proof. 415 ILCS 5/40(a)(1) (2002); *see also* 35 Ill. Adm. Code 105.112(a). Hearings "will be based exclusively on the record before the Agency at the time the permit or decision was issued." 35 Ill. Adm. Code 105.214(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2002)), which only Ethyl Petroleum Additives may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Ethyl Petroleum Additives "shall be entitled to an Appellate Court order pursuant to Section 41(d) of this Act [415 ILCS 5/41(d) (2002)]." 415 ILCS 5/40.2(c) (2002). Currently, the decision deadline is May 4, 2004 (the 120th day after January 5, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for April 15, 2004.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by February 4, 2004, which is 30 days after Ethyl Petroleum Additives filed the petition. 35 Ill. Adm. Code 105.212(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 105.212(b).

With its petition, Ethyl Petroleum Additives submitted a request that the Board stay the effectiveness of various conditions of the permit until the Board has rendered its final decision in this matter. The Agency has not yet responded to this request. *See* 35 Ill. Adm. Code 101.500(d) (2002). The Board reserves ruling on the issues relating to the requested stay pending the response of the Agency.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 8, 2004, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board