

ILLINOIS POLLUTION CONTROL BOARD
January 10, 2002

MCNEILL TWINS OIL COMPANY,)
)
 Petitioner,)
)
 v.) PCB 02-64
) (UST Fund)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by N.J. Melas):

On November 27, 2001, McNeill Twins Oil Company (McNeill) timely filed a petition asking the Board to review an October 23, 2001 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2000); 35 Ill. Adm. Code 105.404. The Agency denied a portion of McNeill's request for reimbursement from the Underground Storage Tank Fund pertaining to LUST Incident 983038 in Prophetstown, Whiteside County. McNeill appeals on the grounds that the labor hours charged to the project were incorrectly reported due to an accounting oversight.

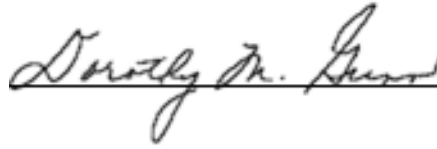
McNeill's petition, along with documents that it filed on November 29, 2001, met the content requirements of 35 Ill. Adm. Code 105.408. However, McNeill was not represented by an attorney. On December 6, 2001 the Board issued an order directing McNeill to secure legal representation. Attorney Robert F. Russell filed an appearance on behalf of McNeill on December 28, 2001. The Board accepts the petition for hearing.

McNeill 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) (2000)), which only McNeill may extend by waiver (*see* 35 Ill. Adm. Code 101.308). On December 28, 2001, McNeill waived the decision deadline indefinitely.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination within 30 days after McNeill 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 January 10, 2002, by a vote of 6-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board