

ILLINOIS POLLUTION CONTROL BOARD

July 24, 2003

PRIME TIME CITGO, INC., and)	
ALPHONSUS OLIEH,)	
)	
Petitioners,)	
)	
v.)	PCB 03-188
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On April 17, 2003, the Board, at the parties' request, extended until July 9, 2003, the time period within which Prime Time Citgo, Inc. and Alphonsus Olieh (petitioners) may appeal a March 3, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.208(a). On July 9, 2003, petitioners filed a petition asking the Board to review the Agency's determination.

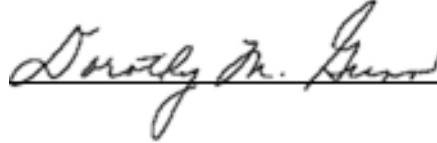
The Agency denied petitioners' submitted budget and associated request for payment regarding a gas station located at 420 North Farnsworth Road in Aurora, Kane County. Petitioners appeal on the grounds that the alternate housing costs denied by the Agency were corrective action costs and do not exceed the minimum requirements of Title XVI of the Environmental Protection Act (Act). Petitioners' petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

Petitioners have 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 petitioners may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, petitioners may deem the permit issued. 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is November 6, 2003 (the 120th day after July 9, 2003). *See* 35 Ill. Adm. Code 105.114. A Board meeting is scheduled on the day of the decision deadline, November 6, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by August 8, 2003 which is 30 days after petitioners 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).

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 24, 2003, by a vote of 6-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board