

ILLINOIS POLLUTION CONTROL BOARD

July 8, 2004

CRAIG'S SERVICE STATION,)	
)	
Petitioner,)	
)	
v.)	PCB 04-169
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On April 1, 2004, the Board, at the parties' request, extended until June 21, 2004 the time period within which Craig's Service Station (Craig's Service) may appeal a February 17, 2004 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. On June 21, 2004, Craig's Service filed a petition asking the Board to review the Agency's determination. At issue is the Agency's modification of Craig's Service's high priority corrective action plan budget for a leaking underground petroleum storage tank facility located at 905 South Morris, Bloomington, McLean County.

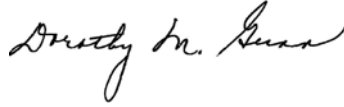
Craig's Service appeals on the grounds that the Agency's determinations were arbitrary, capricious, without statutory authority, and contrary to the decision in Illinois Ayers Oil Co. v. IEPA, PCB 03-214 (Apr. 1, 2004). The petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Craig's Service 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 Craig's Service may extend by waiver. *See* 35 Ill. Adm. Code 101.308. If the Board fails to take final action by the decision deadline, Craig's Service may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is October 19, 2004 (the 120th day after June 21, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for October 7, 2004.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by July 21, 2004 which is 30 days after Craig's Service 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 8, 2004, by a vote of 5-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board