

ILLINOIS POLLUTION CONTROL BOARD
February 3, 2005

A & R, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 05-128
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On January 19, 2005, A & R, Inc. (A & R) filed a petition asking the Board to review a December 27, 2004 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.404. At issue is the Agency's reduction of personnel costs within the amended high priority corrective action modification of Keller's high priority corrective action plan and budget for A & R's leaking underground petroleum storage tanks at 6229 West Ogden Avenue, Cook County.

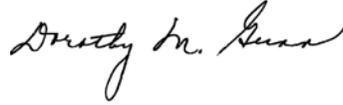
A & R appeals on the grounds that the Agency's decision to reduce overall personal costs by an amount corresponding to the reduction of the total cubic yards of soil for excavation, removal and disposal was arbitrary and capricious. A & R's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

A & R 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 A & R may extend by waiver. *See* 35 Ill. Adm. Code 101.308. If the Board fails to take final action by the decision deadline, A & R may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is May 19, 2005 (the 120th day after January 19, 2005). *See* 35 Ill. Adm. Code 105.114. A Board meeting is scheduled for May 19, 2005.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by February 18, 2005, which is 30 days after A & R 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 February 3, 2005, by a vote of 4-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board