

ILLINOIS POLLUTION CONTROL BOARD
November 17, 2005

MORGAN SOUTHERN COMPANY,)	
)	
Petitioner,)	
)	
v.)	PCB 06-17
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	(90-Day Extension)
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On August 18, 2005, the Board, at the parties' request, extended until November 8, 2005, the time period within which Morgan Southern Company may appeal a June 30, 2005 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2004); 35 Ill. Adm. Code 105.406. On November 8, 2005, Morgan Southern Company filed a petition asking the Board to review the Agency's determination. The Agency denied reimbursement of certain costs of corrective action for Morgan Southern Company's leaking underground petroleum storage tank facility located at 1579 Valencia Court, Calumet City, Cook County.

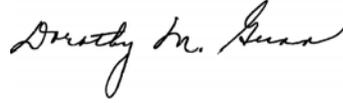
Morgan Southern Company appeals on the grounds that weather prevented the completion of early action activities within the early action period prescribed in 35 Ill. Adm. Code 732.202(g). Morgan Southern Company's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Morgan Southern Company 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) (2004)), which only Morgan Southern Company may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Morgan Southern Company may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2004). Currently, the decision deadline is March 8, 2006 (the 120th day after November 8, 2005). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for March 2, 2006.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by December 8, 2005, which is 30 days after Morgan Southern Company 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 November 17, 2005, by a vote of 4-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board