

ILLINOIS POLLUTION CONTROL BOARD
January 9, 2003

NEWTON COMMUNITY HIGH SCHOOL,)
)
Petitioner,)
)
v.) PCB 03-41
) (UST Fund)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

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

The Board accepts for hearing Newton Community High School's (Newton) timely filed petition appealing the Environmental Protection Agency's (Agency) decision. The Agency modified the proposed budget for the amended site classification work plan regarding an underground storage tank site at 201 West End Avenue in Newton, Jasper County. Newton appeals on the grounds that modification of the proposed budget was arbitrary and capricious. Newton's petition meets the content requirements of 35 Ill. Adm. Code 105.408.

On October 17, 2002, the Board, at the parties' request, extended until January 2, 2003, the time period within which Newton may appeal an August 30, 2002 determination of the Agency. *See* 415 ILCS 5/40(a)(1) (2000), *amended by* P.A. 92-0574, eff. June 26, 2002; 35 Ill. Adm. Code 105.406. On December 31, 2002, Newton sent its petition by certified mail to the Board asking the Board to review the Agency's determination; the Board received the petition on January 6, 2003. Because the postmark date precedes the filing deadline date, the petition is deemed timely filed on the postmark date. 35 Ill. Adm. Code 101.300(b)(2).

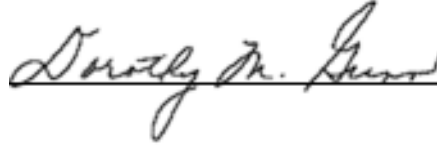
Newton has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2000), *amended by* P.A. 92-0574, eff. June 26, 2002), which only Newton may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Newton may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2000), *amended by* P.A. 92-0574, eff. June 26, 2002. Currently, the decision deadline is May 3, 2003 (the 120th day after January 6, 2003). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for May 1, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by February 5, 2003, which is 30 days after Newton 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 9, 2003, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board