

ILLINOIS POLLUTION CONTROL BOARD
September 4, 1997

RIVERVIEW FS,)	
)	
Petitioner,)	
)	PCB 97-226
v.)	(UST - Reimbursement)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by K.M. Hennessey):

On June 17, 1997, Riverview FS (petitioner) filed a petition for review of the Illinois Environmental Protection Agency's (Agency) final determination regarding petitioner's request for reimbursement from the Underground Storage Tank Fund. The final determination concerns petitioner's site located at 1925 South Meridan Road, Rockford, Illinois.

Because the petition was filed on behalf of petitioner by an environmental consultant without indicating whether the consultant was an attorney, the Board's order of July 10, 1997, required that petitioner file an amended petition within 45 days through an attorney if petitioner is a corporation or, if petitioner is an unincorporated sole proprietorship, through an attorney or on its own behalf, over petitioner's signature.

On August 22, 1997, petitioner filed an amended petition through an attorney. This matter is accepted for hearing. The hearing must be scheduled and completed in a timely manner, consistent with Board practices and the applicable statutory decision deadline, or the decision deadline as extended by waiver. (Petitioner may file a waiver of the statutory decision deadline pursuant to 35 Ill. Adm. Code 101.105.) The Board will assign a hearing officer to conduct hearings consistent with this order, and the Clerk of the Board must promptly issue appropriate directions to that assigned hearing officer.

The assigned hearing officer must inform the Clerk of the Board of the time and location of the hearing at least 30 days in advance of hearing so that a 21-day public notice of hearing may be published. After hearing, the hearing officer must submit an exhibit list, a statement regarding credibility of witnesses, and all actual exhibits to the Board within 5 days of the hearing.

Any briefing schedule must provide for final filings as expeditiously as possible and, in time-limited cases, no later than 30 days prior to the decision due date, which is the final regularly scheduled Board meeting date on or before the statutory or deferred decision deadline. Absent any future waivers of the decision deadline, the statutory decision deadline is

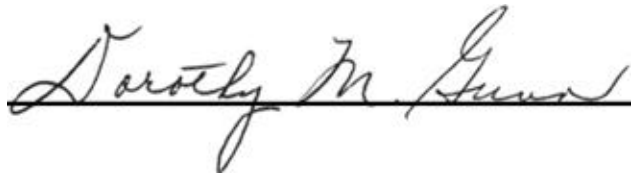
now December 20, 1997 (120 days from August 22, 1997); the Board meeting immediately preceding the decision deadline is scheduled for December 18, 1997.

If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer must unilaterally set a hearing date in conformance with the schedule above. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible.

The Board notes that the amended petition did not include proof of service on the Agency and that no appearance has been filed by petitioner's attorney. The Board orders that within 14 days of the date of this order, petitioner's attorney must file an appearance in this matter in accordance with 35 Ill. Adm. Code 101.107(c). In addition, the Board orders that within 14 days of the date of this order, petitioner must file proof of service of the amended petition on the Agency in accordance with 35 Ill. Adm. Code 105.102(a)(3). If the appearance and proof of service are not filed as required by this order, the Board may dismiss the amended petition. In accordance with 35 Ill. Adm. Code 105.102(a)(4), the Agency must file the entire Agency record of the reimbursement request within 14 days of the date that it receives notice of the amended petition.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 4th day of September 1997, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board