

ILLINOIS POLLUTION CONTROL BOARD

May 6, 2004

WEWS, L.P. (the Boye Needle Facility),	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 04-128
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

On February 5, 2004, the Board, at the parties' request, extended until April 22, 2004, the time period within which WEWS, L.P. (Boye Needle Facility) may appeal a December 18, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. On April 22, 2004, WEWS filed a petition asking the Board to review the Agency's determination. The Agency approved petitioner's request for reimbursement from the UST Fund, with modifications for the Boye Needle Facility's leaking underground petroleum storage tank facility located at 4343-4357 North Ravenswood, Chicago, Cook County.

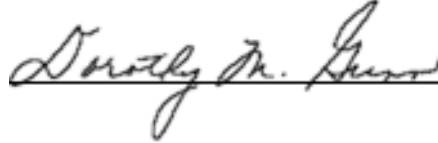
WEWS appeals on the grounds that the costs submitted to the Agency were reasonable, they were costs for activities undertaken in response to a confirmed release, and the costs were reimbursable under the Act. The Boye Needle Facility's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

WEWS 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 the Boye Needle Facility may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, the Boye Needle Facility may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is August 20, 2004 (the 120th day after April 22, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for August 19, 2004.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by May 29, 2004, which is 30 days after the Boye Needle Facility 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 May 6, 2004, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board