

ILLINOIS POLLUTION CONTROL BOARD
March 18, 2004

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|-------------------------------|---|--------------|
| ELSTON/WEBSTER, LP and |) | |
| RENAISSANCE REALTY GROUP LLC, |) | |
| |) | |
| Petitioners, |) | |
| |) | |
| v. |) | PCB 04-155 |
| |) | (UST Appeal) |
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Respondent. |) | |

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

On March 12, 2004, Elston/Webster, LP and Renaissance Realty Group LLC (petitioners) timely filed a petition asking the Board to review a February 9, 2004 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.402. The Agency approved petitioner's high priority corrective action plan, with modifications, for the petitioners' leaking underground petroleum storage tank facility located at 2211 North Elston Avenue, Chicago, Cook County.

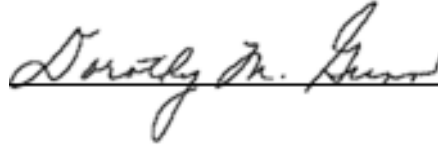
The petitioners appeal on the grounds that the modifications to the plan were improper. The petitioners' petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

The petitioners have 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 petitioners may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, the petitioners may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is July 10, 2004 (the 120th day after March 12, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for July 8, 2004.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by April 11, 2004, which is 30 days after the petitioners 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 March 18, 2004, 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