

ILLINOIS POLLUTION CONTROL BOARD
July 10, 2003

TASIM FEJZA,)	
)	
Petitioner,)	
)	
v.)	PCB 03-162
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

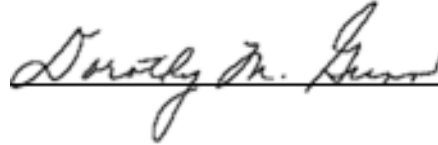
On April 3, 2003, the Board, at the parties' request, extended until June 23, 2003, the time period within which Tasim Fejza (Fejza) may appeal a February 18, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. On June 25, 2003, Fejza filed a petition asking the Board to review the Agency's determination. Because the postmark date of the petition is within the extended time for filing, the petition was timely filed. 35 Ill. Adm. Code 101.300(b)(2), 105.404. At issue is the Agency's approval of the high priority corrective action plan, with modifications, regarding Fejza's underground storage tank site located at I-57 and Peotone Road, Peotone, Will County. Fejza is appealing on the grounds that the Agency determination was arbitrary and capricious and that the corrective action plan and its budget, as submitted to the Agency, were reasonable, justifiable, necessary, consistent with generally accepted engineering practices, and eligible for reimbursement from the Underground Storage Tank Fund. Fejza's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Fejza 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 Fejza may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Fejza may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is October 23, 2003 (the 120th day after June 25, 2003). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for October 16, 2003.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by July 25, 2003, which is 30 days after Fejza 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 July 10, 2003, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board