

ILLINOIS POLLUTION CONTROL BOARD

July 10, 2003

SWIF-T-FOOD MART,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 03-185
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

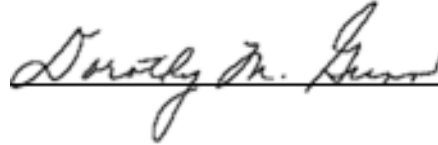
On April 17, 2003, the Board, at the parties' request, extended until July 7, 2003, the time period within which Swif-T-Food Mart may appeal a March 3, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. On July 7, 2003, Swif-T-Food Mart filed a petition asking the Board to review the Agency's determination. At issue is the Agency's approval of reimbursement of requested costs of corrective action, with modifications, regarding Swif-T-Food Mart's underground storage tank site located at 1100 Belvidere Road, Lake County. Swif-T-Food Mart appeals on the grounds that the Agency applied a deductible amount to the costs in violation of the applicable statute and that the Agency deduction of other costs was unreasonable and an error as a matter of law and fact. Swif-T-Food Mart's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Swif-T-Food Mart 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 Swif-T-Food Mart may extend by waiver. *See* 35 Ill. Adm. Code 101.308. If the Board fails to take final action by the decision deadline, Swif-T-Food Mart may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is November 4, 2003 (the 120th day after July 7, 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 August 6, 2003 which is 30 days after Swif-T-Food Mart 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