

ILLINOIS POLLUTION CONTROL BOARD
November 4, 2004

BILL CARTER d/b/a CARTER)	
CONVENIENCE STORE,)	
)	
Petitioner,)	
)	
v.)	PCB 05-15
)	(UST Appeal)
)	
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On August 5, 2004, the Board, at the parties' request, extended until October 26, 2004, the time period within which Bill Carter may appeal a June 22, 2004 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. On October 26, 2004, Bill Carter filed a petition asking the Board to review the Agency's determination. The Agency rejected petitioner's high priority corrective action plan budget amendment for Bill Carter's leaking underground petroleum storage tank facility located at 809 Loy Street, Mill Shoals, White County.

Bill Carter appeals on the grounds that (1) the costs previously approved are inadequate to perform the corrective action work at the site and comply with the Environmental Protection Act (Act); (2) the Agency failed to perform a detailed review of the revised budget in accordance with Subpart E of 35 Ill. Adm. Code 732; and (3) the revised costs submitted to the Agency are reasonable and necessary to complete the work. Bill Carter's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

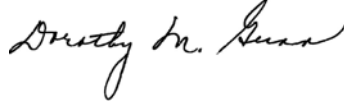
Bill Carter has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2002)), which only Bill Carter may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Bill Carter may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is February 23, 2005 (the 120th day after October 26, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for February 17, 2005.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by November 25, 2004, which is 30 days after Bill Carter 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 November 4, 2004, by a vote of 5-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board