

ILLINOIS POLLUTION CONTROL BOARD
March 3, 2005

WILLIAM BREUER,)	
)	
Petitioner,)	
)	
v.)	PCB 05-108
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On December 16, 2004, the Board, at the parties' request, extended until March 3, 2005, the time period within which William Breuer may appeal an October 26, 2003 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. On February 16, 2005, William Breuer filed a petition asking the Board to review the Agency's determination. The Agency modified petitioner's high priority corrective action plan for William Breuer's leaking underground petroleum storage tank facility located at Highway 177 and Hoyleton-Hoffman Road, Hoyleton, Washington County.

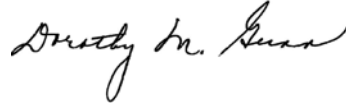
William Breuer appeals on the grounds that the Agency adjustment was unreasonable, arbitrary, and capricious. William Breuer's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

William Breuer 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 William Breuer may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, William Breuer may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is June 6, 2005 (the 120th day after February 16, 2005). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for June 2, 2005.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by March 18, 2005, which is 30 days after William Breuer 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 3, 2005, 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