

ILLINOIS POLLUTION CONTROL BOARD
November 18, 2004

RANDY'S SHELL,)	
)	
Petitioner,)	
)	
v.)	PCB 05-21
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On August 19, 2004, the Board, at the parties' request, extended until November 12, 2004, the time period within which Randy's Shell may appeal a July 8, 2004 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. On November 12, 2004, Randy's Shell filed a petition asking the Board to review the Agency's determination. The Agency rejected petitioner's high priority corrective action plan budget for Randy's Shell's leaking underground petroleum storage tank facility located at 249 South Macon Street, in Bement, Piatt County.

Randy's Shell appeals on the grounds that (1) the Agency failed to a conduct review of the budget as required by the regulations; (2) the revised cost estimates are necessary to comply with the minimum-required activities at the site and the previously-approved costs are inadequate to perform the work; and (3) the requested costs are reasonable costs. Randy's Shell's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

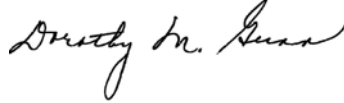
Randy's Shell has the burden of proof. 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. 35 Ill. Adm. Code 105.412. Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2002)), which only Randy's Shell may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Randy's Shell may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2002). Currently, the decision deadline is March 12, 2005 (the 120th day after November 12, 2004). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for March 3, 2005.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by December 12, 2004, which is 30 days after Randy's Shell 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 18, 2004, by a vote of 5-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board