

ILLINOIS POLLUTION CONTROL BOARD
April 6, 2006

CATERPILLAR LOGISTICS, INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 06-148
)	(Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by G.T. Girard):

On March 14, 2006, Caterpillar Logistics, Inc. (Caterpillar Logistics) timely filed a petition asking the Board to review a February 7, 2006 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2004); 35 Ill. Adm. Code 105.206(a). Because the postmark date of the joint request is within the extended time for filing, the petition was timely filed. 35 Ill. Adm. Code 101.300(b)(2), 105.404. The Agency omitted existing permit conditions relating to an emergency diesel generator in the course of modifying the air operating permit issued to Caterpillar Logistics' manufacturing facility at 500 North Morton Avenue, Morton, Tazewell County.

Caterpillar Logistics appeals on the grounds that the Agency erred in issuing the permit without the emergency diesel generator condition. Caterpillar suggested that this was a clerical error in using a 2001 version of the permit in making the modifications, instead of the more recent 2003 version that included the generator. Caterpillar Logistics' petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

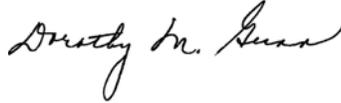
Caterpillar Logistics has the burden of proof. 415 ILCS 5/40(a)(1) (2004); *see also* 35 Ill. Adm. Code 105.112(a). Hearings "will be based exclusively on the record before the Agency at the time the permit or decision was issued." 35 Ill. Adm. Code 105.214(a). Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2004)), which only Caterpillar Logistics may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Caterpillar Logistics "may deem the permit issued." 415 ILCS 5/40(a)(2) (2004). Currently, the decision deadline is July 12, 2006 (the 120th day after March 14, 2006). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for July 6, 2006.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by April 13, 2006 which is 30 days after Caterpillar Logistics filed the petition. 35 Ill. Adm. Code 105.212(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 105.212(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 April 6, 2006, by a vote of 4-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board