

ILLINOIS POLLUTION CONTROL BOARD

June 6, 2002

ELSTON/WEBSTER, LP,)	
)	
Petitioner,)	
)	
v.)	PCB 02-210
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.A. Manning):

On May 29, 2002, Elston/Webster, LP (Elston) timely filed a petition asking the Board to review a May 2, 2002 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2000); 35 Ill. Adm. Code 105.404.

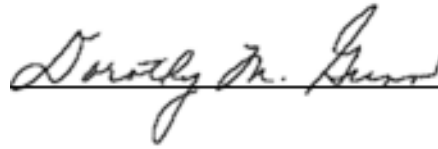
The Agency modified the proposed budget for the site classification work plan regarding an underground storage tank site at 2211 North Elston Avenue, Chicago, Cook County. Elston appeals on the grounds that the modifications are contrary to applicable statutory and regulatory provisions. Elston's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Elston 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) (2000)), which only Elston may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Elston may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2000). Currently, the decision deadline is September 26, 2002 (the 120th day after May 29, 2002). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for September 19, 2002.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by June 29, which is 30 days after Elston 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 June 6, 2002, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board