

ILLINOIS POLLUTION CONTROL BOARD
January 7, 1999

MDI LTD. PARTNERSHIP,)
)
 Petitioner,)
)
 v.) PCB 99-89
) (UST - Appeal)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

MDI LTD. PARTNERSHIP,)
)
 Petitioner,)
)
 v.) PCB 99-90
) (UST - Appeal)
 ILLINOIS ENVIRONMENTAL) (90-Day Extension)
 PROTECTION AGENCY,)
)
 Respondent.)

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

On December 23, 1998, respondent MDI Ltd. Partnership (MDI) filed a petition for review of a November 24, 1998 denial of an underground storage tank reimbursement by the Illinois Environmental Protection Agency (Agency). The Board assigned this petition, which was accompanied by the required filing fee, docket number PCB 99-89.

Also on December 23, 1998, MDI filed a request for 90-day extension of the 35-day appeal period of a November 24, 1998 denial of an underground storage tank reimbursement by the Agency. The Board assigned this request for 90-day extension docket number PCB 99-90.

In its letter to the Agency requesting the 90-day extension, MDI stated its intent to "enter into negotiation with the Agency with anticipation that we can avoid the need for a formal appeal." However, noting that the Board had no meeting scheduled during the six days before the expiration of the 35-day appeal period on December 29, 1998, MDI went on to state that it could not "avoid filing the petition for formal appeal" in addition to the 90-day extension request; "[h]owever we may be able to avoid processing the formal appeal." On January 4, 1999, the Agency filed a request in support of MDI's request for 90-day extension of the appeal period.

The Board finds that the request for 90-day extension is mooted by MDI's proper filing of an appeal in docket PCB 99-89. The Board therefore closes docket PCB 99-90.

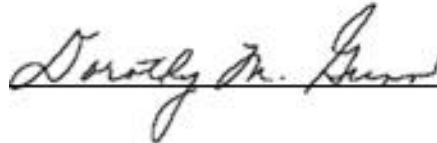
The Board accepts for hearing the appeal filed by respondent MDI in docket PCB 99-89. The Board's rules require that the Agency file the entire Agency record of the permit application within 14 days of notice of the petition. See 35 Ill. Adm. Code 105.102. Hearing must be scheduled and completed in a timely manner, pursuant to the applicable statutory decision deadline, or the decision deadline as extended by a waiver. See 35 Ill. Adm. Code 101.105.

In accepting the case for hearing, the Board does not intend to frustrate the parties' stated plan to further negotiate the issues in this action. The Board will not stay further proceedings in this appeal today, given the present decision deadline of April 27, 1999. However, in accordance with Section 101.105, the hearing officer may stay the proceedings, including the filing of the record through the date covered by a 90-day extension grant (or longer), upon receipt of an appropriate waiver of the decision deadline.

All further pleadings and orders in this proceeding shall refer to caption PCB 99-89 only.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 7th day of January 1999 by a vote of 5-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board