

ILLINOIS POLLUTION CONTROL BOARD
May 5, 1994

TNT HOLLAND MOTOR)
EXPRESS, Inc.,)
)
Petitioner,)
)
v.) PCB 94-133
) (UST Fund)
OFFICE OF THE STATE)
FIRE MARSHALL,)
)
Respondent.)

ORDER OF THE BOARD:

On April 21, 1994, TNT Holland Motor Express, Inc. filed a petition for review of an Office of the State Fire Marshall ("OSFM") deductible determination from the Underground Storage Tank Fund and of the OSFM's ability to reconsider a final reimbursement decision. The OSFM issued a reimbursement decision on March 15, 1994 which determined the Petitioner was eligible to seek corrective action costs. It further stated that "(t)his constitutes the final decision as it relates to your eligibility and deductibility." The OSFM issued a second letter on March 17, 1994, stating that it had reviewed its "preliminary deductible determination" for the site and found Petitioner was ineligible for reimbursement because no confirmed release had been reported. Finally, the OSFM issued a third letter on March 17, 1994, stating that the Petitioner was ineligible and this was the "final decision." The final determination concerns TNT Holland Motor Express, Inc.'s site located at 8601 West 53rd Street, McCook, Cook County, Illinois. This matter is accepted for hearing.

The hearing must be scheduled and completed in a timely manner, consistent with Board practices and the applicable statutory decision deadline, or the decision deadline as extended by a waiver (petitioner may file a waiver of the statutory decision deadline pursuant to 35 Ill. Adm. Code 101.105). The Chief Hearing Officer shall assign a hearing officer to conduct hearings. The Clerk of the Board shall promptly issue appropriate directions to the assigned hearing officer consistent with this order.

The assigned hearing officer shall inform the Clerk of the Board of the time and location of the hearing at least 40 days in advance of hearing so that public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list, a statement regarding credibility of witnesses and all actual exhibits to the Board within five days of the hearing.

Any briefing schedule shall provide for final filings as expeditiously as possible and, in time-limited cases, no later than 30 days prior to the decision due date, which is the final regularly scheduled Board meeting date on or before the statutory or deferred decision deadline. In this case, the statutory decision deadline is August 19, 1994; therefore the decision due date is August 11, 1994.

If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date in conformance with the schedule above. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible. The Board notes that Board rules (35 Ill. Adm. Code 105.102) require the Agency to file the entire Agency record of the permit application within 14 days of notice of the petition.

This order will not appear in the Board's opinion volumes.

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 5th day of May, 1994, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board