

ILLINOIS POLLUTION CONTROL BOARD
January 8, 2009

HUFFMAN’S SERVICE,)	
)	
Petitioner,)	
)	
v.)	PCB 09-28
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

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

On October 23, 2008, the Board, at the parties’ request, extended until December 18, 2008, the time period within which Huffman’s Service may appeal a September 12, 2008 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2000); 35 Ill. Adm. Code 105.208(a). On December 16, 2008, Huffman’s Service filed a petition asking the Board to review the Agency’s determination. The Agency’s determination concerns a leaking petroleum underground storage tank (UST) site located at Front and Russell Streets in Alexander County. The Agency denied Huffman’s Service reimbursement from the UST Fund in the amount of \$73,198.89.

Huffman’s Service appeals on the grounds that the Agency’s decision to reject the reimbursement is not supported by “statute, regulations or the Agency’s own forms.” Specifically, Huffman’s Service claims that the Agency sought additional information that was not requested on the Agency’s forms and the information requested is not required by the regulations. Huffman’s Service’s petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Huffman’s Service 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) (2006)), which only Huffman’s Service may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Huffman’s Service may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2006). Currently, the decision deadline is April 15, 2009 (the first business day following the 120th day after December 18, 2008). *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for April 2, 2009.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by January 15, 2009 which is 30 days after Huffman’s Service 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, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 8, 2009, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board