

ILLINOIS POLLUTION CONTROL BOARD
June 13, 2011

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STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)
)
UNDERGROUND STORAGE TANKS (35) R11-22
ILL. ADM. CODE 731) AND PETROLEUM) (Rulemaking - Land)
LEAKING UNDERGROUND STORAGE)
TANKS (35 ILL. ADM. CODE 732 AND 734))

HEARING OFFICER ORDER

In order to expedite the second hearing scheduled in this matter at 1:00 PM on Thursday, June 16, 2011, the hearing officer directs the attention of the Illinois Environmental Protection Agency (Agency) to the questions attached to this order and requests that the Agency address them at the second hearing. The Board and its staff may have follow-up questions and pose other questions during the second hearing.

IT IS SO ORDERED.



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R11-22
UNDERGROUND STORAGE TANKS (35 ILL. ADM. CODE 731) AND
PETROLEUM LEAKING UNDERGROUND STORAGE TANKS (35 ILL. ADM. CODE
732 AND 734)

Board Staff Questions for IEPA

QUESTIONS FOR IEPA

734.855 Bidding

During the first hearing on Tuesday, May 11, 2011, Mr. Russ Goodiel of Chase Environmental expressed concern that the proposed bidding process does not contain provisions similar to those used by Central Management Services (CMS) for the pre-qualification or bonding of bidders or for change orders "if there is something that was not expected in a project." Tr. at 91-93.

Mr. Hernando Albarracin of IEPA explained that proposed section 35 IAC 734.855(d) lists factors that would be considered to determine if a bidder is "responsible." Tr. at 94. Mr. Albarracin stated that the Agency would examine other factors that participants wish to propose. Tr. at 94-95.

However, Mr. Albarracin did specifically address the prospect of change orders.

- (a) Does the Agency or any other party intend to propose pre-qualification, certification, or bonding requirements for contractors that would be similar to CMS requirements?
- (b) Would the Agency's proposed language or the language of the Environmental Protection Act (*e.g.*, 415 ILCS 5/57.7(c)(3)(B)(i), (iv)) preclude an owner, operator, or consultant from including bid requirements for pre-qualification, certification, or bonding similar to those of CMS?
- (c) Would the Agency's proposed language or the language of the Act (*e.g.*, 415 ILCS 5/57.7(c)(3)(B)) preclude a provision for change orders similar to any CMS bidding requirements? If not, would the IEPA consider adding such language to its proposal?