

ILLINOIS POLLUTION CONTROL BOARD
September 5, 2013

CONSOLIDATED ICE COMPANY,)
)
 Petitioner,)
)
 v.) PCB 13-56
) (UST Appeal)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by C.K. Zalewski):

On April 18, 2013, at the parties' request, the Board extended until July 16, 2013, the time period for petitioner to appeal a March 5, 2013 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2012); 35 Ill. Adm. Code 105.406. The determination concerns Consolidated Ice Company's underground storage tank (UST) site located at 5300 Collinsville Road in Fairmont City, St. Clair County. The Agency determined that reimbursement of corrective action costs will be apportioned at an 86% rate based upon the volume of eligible tanks.

On July 8, 2013, Consolidated Ice filed a petition for review asserting that the Agency's apportionment is erroneous because remediation of any contamination from the ineligible tank is neither required nor proposed. On July 11, 2013, the Board accepted Consolidated Ice's petition as timely filed but found that the petition was deficient. Consolidated Ice's petition was filed by a non-attorney, Thomas L. Herlacher, Professional Engineer and Principal Engineer with Herlacher Angleton Associates, LLC, an environmental engineering firm. The petition stated that "[w]e see no . . . need to hire an attorney at considerable cost to represent our client" Pet. at 1.

In an adjudicatory proceeding before the Board, such as this UST appeal, any party other than an individual must be represented by an attorney licensed and registered to practice law. Trepanier et. al. Speedway Wrecking Company, et. al., PCB 97-50, slip op. at 3 (Jan. 6, 2000); *see also* 35 Ill. Adm. Code 101.400(a)(2). Accordingly, the Board directed Consolidated Ice to file an amended petition for review accompanied by the appearance of an attorney by August 12, 2013. Consolidated Ice has not filed an amended petition. Because Consolidated Ice failed to timely file an amended petition for review accompanied by the appearance of an attorney, the Board dismisses this case and closes the docket.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the

order. 415 ILCS 5/41(a) (2012); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 5, 2013, by a vote of 4-0.

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

John T. Therriault, Clerk
Illinois Pollution Control Board