

ILLINOIS POLLUTION CONTROL BOARD  
October 27, 2016

WILLIAM AND RITA TRANKINA, )  
)  
Petitioners, )  
)  
v. ) PCB 17-14  
) (UST Appeal)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
)  
Respondent. )

ORDER OF THE BOARD (by J.D. O’Leary):

On October 20, 2016, William and Rita Trankina (petitioners) timely filed a petition (Pet.) asking the Board to review an October 4, 2016 determination of the Illinois Environmental Protection Agency (IEPA). *See* 415 ILCS 5/40(a)(1) (2014); 35 Ill. Adm. Code 101.300(b), 105.402, 105.404, 105.406. IEPA’s determination concerns petitioners’ underground storage tank (UST) site, located at 101 West Sherman Street, in Fithian, Vermillion County. For the reasons below, the Board accepts petitioners’ petition for hearing.

Under the Environmental Protection Act (Act), IEPA decides whether to approve proposed cleanup plans and budgets for leaking UST sites, as well as requests for cleanup cost reimbursement from the State’s UST Fund. *See* 415 ILCS 5 (2014). If IEPA denies or modifies a submittal, the UST owner or operator may appeal the decision to the Board. *See* 415 ILCS 5/40(a)(1), 57-57.17 (2014); 35 Ill. Adm. Code 105.Subpart D. In this case, IEPA modified the corrective action budget by cutting costs for personnel time and materials. Pet. Exh. B at 1. Petitioners appeal on the grounds that the application was legally complete and that the Agency erred in its decision to cut the budget. Pet. at 4.

The Board accepts the petition for hearing. Petitioners have the burden of proof. *See* 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before IEPA at the time IEPA issued its determination. *See* 35 Ill. Adm. Code 105.412. Accordingly, though the Board hearing affords petitioner the opportunity to challenge IEPA’s reasons for its decision, information developed after IEPA’s decision typically is not admitted at hearing or considered by the Board. *See* Alton Packaging Corp. v. PCB, 162 Ill. App. 3d 731, 738, 516 N.E.2d 275, 280 (5<sup>th</sup> Dist. 1987); Community Landfill Co. & City of Morris v. IEPA, PCB 01-170 (Dec. 6, 2001), *aff’d sub nom.* Community Landfill Co. & City of Morris v. PCB & IEPA, 331 Ill. App. 3d 1056, 772 N.E.2d 231 (3rd Dist. 2002).

Upon its own motion or the motion of any party, the Board or the hearing officer may order that the hearing be held by videoconference. In deciding whether to hold the hearing by videoconference, factors that the Board or the hearing officer will consider include cost-effectiveness, efficiency, facility accommodations, witness availability, public interest, the

parties' preferences, and the proceeding's complexity and contentiousness. *See* 35 Ill. Adm. Code 101.600(b), 105.110.

Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline, which only petitioners may extend by waiver. *See* 415 ILCS 5/40(a)(2) (2014); 35 Ill. Adm. Code 101.308. If the Board fails to take final action by the decision deadline, petitioners may deem their request granted. *See* 415 ILCS 5/40(a)(2) (2014). Currently, the decision deadline is February 17, 2017, which is the 120th day after the date on which the Board received the petition. *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for February 16, 2017.

Unless the Board or the hearing officer orders otherwise, IEPA must file the entire record of its determination by November 21, 2016, which is the first business day following the 30th day after the date on which the Board received petitioners' petition. *See* 35 Ill. Adm. Code 105.116(a), 105.410(a). If IEPA 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. *See* 35 Ill. Adm. Code 105.116(a). The record must comply with the Board's requirements for content, organization, and certification. *See* 35 Ill. Adm. Code 105.116(b), 105.410(b). In addition, IEPA must file the record electronically instead of in paper. Specifically, the record must be filed through the Clerk's Office On-Line (COOL) or on compact disk or other portable electronic data storage device and, to the extent technically feasible, in text-searchable Adobe PDF. *See* 35 Ill. Adm. Code 101.302(h)(2)(A), 105.116(a).<sup>1</sup>

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 27, 2016, by a vote of 5-0.



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John T. Therriault, Clerk  
Illinois Pollution Control Board

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<sup>1</sup> Any questions about filing the record in an electronic format should be directed to the Clerk's Office at 312-814-3629.