

ILLINOIS POLLUTION CONTROL BOARD
July 26, 2018

RELIABLE STORES, INC.,)
)
 Petitioner,)
)
 v.) PCB 19-2
) (UST Appeal)
 OFFICE OF THE STATE FIRE MARSHAL,)
)
 Respondent.)

ORDER OF THE BOARD (by U. Choe):

On July 3, 2018, the Board received a letter on behalf of Reliable Stores, Inc. (Reliable Stores) requesting a hearing to review a June 12, 2018 determination of the Office of the State Fire Marshal (OSFM). *See* 415 ILCS 5/57.9(c)(2) (2016); 35 Ill. Adm. Code 101.300(b), 105.504(b). The OSFM’s determination concerns Reliable Stores’ leaking underground storage tank (UST) site located at 905 W. Roosevelt in Maywood, Cook County. For the reasons below, the Board accepts the letter as a timely petition but directs Reliable Stores to file an amended petition correcting specified deficiencies within 30 days or face dismissal of this appeal.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2016)), the OSFM decides whether persons are eligible to have their cleanup costs reimbursed from the Underground Storage Tank (UST) Fund, which consists of UST fees and motor fuel taxes. If the person is eligible for reimbursement, the OSFM also decides which deductible applies. The UST owner or operator may appeal these OSFM decisions to the Board. *See* 415 ILCS 5/57.9(c)(2) (2016); 35 Ill. Adm. Code 105.Subpart E. In this case, the OSFM denied Reliable Stores’ Reimbursement Eligibility and Deductible Application.

The Board accepts Reliable Stores’ July 3, 2018 letter as a timely filed petition but finds that the petition is deficient. First, in adjudicatory proceedings before the Board, including this UST appeal, anyone other than an individual must be represented by an attorney licensed and registered to practice law. 35 Ill. Adm. Code 101.400(a)(2). Reliable Stores’ letter was signed by Brian S. Morin, Vice President of Eagle Environmental Consultants, LLC. Mr. Morin did not file an appearance, and his letter does not indicate that he is an attorney.

Second, a petition for review of an OSFM UST determination must include “[a] statement specifying the grounds of appeal.” 35 Ill. Adm. Code 104.408(c). While Mr. Morin’s letter states that it serves as a petition for a hearing, it specifies no grounds for appeal of the OSFM’s determination.

By Monday, August 27, 2018, which is the first business day following the 30th day after the date of this order, Reliable Stores must file with the Board an amended petition for review

remedying the deficiencies identified above. Failure to do so will subject this appeal to dismissal. *See City of Taylorville/Taylorville Municipal Airport v. IEPA*, PCB 12-57 (Nov. 3, 2011). Timely filing an amended petition will re-start the Board's statutory 120-day deadline to decide this appeal. 35 Ill. Adm. Code 105.114(b). Reliable Stores must also serve a copy of the amended petition on the OSFM. *See* 35 Ill. Adm. Code 101.304.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 26, 2018, by a vote of 5-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large, looped initial "D".

Don A. Brown, Clerk
Illinois Pollution Control Board