

ILLINOIS POLLUTION CONTROL BOARD
October 18, 2001

PACELLA & SONS,)
)
 Petitioner,)
)
 v.) PCB 02-47
) (UST Fund)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by C.A.Manning):

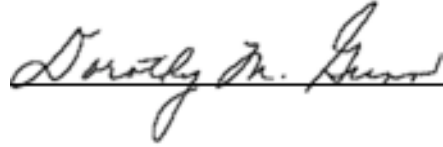
On October 12, 2001, Pacella & Sons (Pacella) timely filed a petition asking the Board to review a September 24, 2001 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2000); 35 Ill. Adm. Code 105.404. The Agency denied a portion of Pacella's corrective action cost reimbursement request regarding an underground storage tank site in Cook County. Pacella appeals on the grounds that denial is contrary to applicable statutory and regulatory provisions. Pacella's petition meets the content requirements of 35 Ill. Adm. Code 105.408. The Board accepts the petition for hearing.

Pacella 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) (2000)), which only Pacella may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, Pacella may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2000). Currently, the decision deadline is February 9, 2002, the 120th day after October 12, 2001. *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for February 7, 2002.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination within 30 days after Pacella 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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 18, 2001, by a vote of 7-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a solid horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board