

ILLINOIS POLLUTION CONTROL BOARD
April 21, 1994

H.C.T.K. INC.,)	
)	
Petitioner,)	
)	
v.)	PCB 94-82
)	(UST Fund)
ILLINOIS ENVIRONMENTAL,)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on petitioner H.C.T.K., Inc.'s amended petition for review, filed on April 18, 1994. On March 17, 1994, the Board directed H.C.T.K. to amend its petition and provide sufficient information to determine whether this appeal was timely filed. In order for the Board to review an Agency final determination pursuant to Sections 22.18(b)(g) and 40 of the Environmental Protection Act (Act), a petition for review must be filed within thirty-five (35) days of the date of the final determination. (415 ILCS 5/22.18b(g), 5/40 (1992).) H.C.T.K. has now provided a copy of the check issued by the Comptroller, dated January 27, 1994. The petition for review was mailed on February 28, 1994, and received by the Board on March 3, 1994. Thus, the appeal is timely, and this matter is accepted for hearing.¹

The hearing must be scheduled and completed in a timely manner, consistent with Board practices and the applicable statutory decision deadline, or the decision deadline as extended by a waiver. (Petitioner may file a waiver of the statutory decision deadline pursuant to 35 Ill. Adm. Code 101.105.) The Chief Hearing Officer shall assign a hearing officer to conduct hearings. The Clerk of the Board shall promptly issue appropriate directions to the assigned hearing officer consistent with this order.

The assigned hearing officer shall inform the Clerk of the

¹ We have previously found that appeals filed within 35 days of the date of the Comptroller's check are timely filed. (Geuther v. Illinois Environmental Protection Agency (February 3, 1994), PCB 93-232 and PCB 94-53 (cons.); City of Elgin v. Illinois Environmental Protection Agency (February 3, 1994), PCB 93-246.)

Board of the time and location of the hearing at least 40 days in advance of hearing so that public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list, a statement regarding credibility of witnesses and all actual exhibits to the Board within five days of the hearing. Any briefing schedule shall provide for final filings as expeditiously as possible and, in time-limited cases, no later than 30 days prior to the decision due date, which is the final regularly scheduled Board meeting date on or before the statutory or deferred decision deadline. In this case, the statutory decision deadline is August 16, 1994; therefore the decision due date is August 11, 1994.

If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date in conformance with the schedule above. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible. The Board notes that Board rules (35 Ill. Adm. Code 105.102) require the Agency to file the entire Agency record of the permit application within 14 days of notice of the petition.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 21st day of April, 1994, by a vote of 6-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board