

ILLINOIS POLLUTION CONTROL BOARD  
April 16, 1992

RUSSELL L. BACON,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 92-1
	)	(Underground Storage
ILLINOIS ENVIRONMENTAL	)	Tank Reimbursement)
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by M. Nardulli):

This matter is before the Board on its own motion to reconsider its order of March 26, 1992 which vacated the Board's order of March 12, 1992. For the following reasons, the Board vacates its order of March 26, 1992 and reinstates its order of March 12, 1992. The Board's March 12, 1992 order dismissed Russell L. Bacon's (Bacon) January 2, 1992 petition for review of the Illinois Environmental Protection Agency's (Agency) decision applying a \$50,000 deductible to Bacon's claim for reimbursement from the Underground Storage Tank (UST) Fund.

In Ideal Heating Co. v. IEPA (January 23, 1992), PCB 92-1, the Board determined that only those Agency UST decisions finding an applicant ineligible to access the Fund or reaching a complete determination on reimbursement of corrective action costs were ripe for Board review. Hence, an Agency determination imposing a deductible alone is not ripe for Board review.

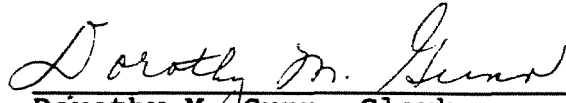
In entering its order of March 26, 1992, the Board mistakenly failed to adhere to the procedure adopted in Ideal Heating. Therefore, pursuant to Ideal Heating the Board vacates its order of March 26, 1992 and reinstates its prior order of March 12, 1992 dismissing Bacon's petition for review and remanding this matter to the Agency for a final determination.<sup>1</sup> Also consistent with Ideal Heating, Bacon may file a new petition for review when the Agency's UST decision becomes final. However, to avoid undue prejudice, the Board waives the \$75 filing fee since this fee was paid with the instant petition for review.

IT IS SO ORDERED.

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<sup>1</sup> The Board notes that Bacon previously stipulated to the Agency's motion to dismiss based on Ideal Heating.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 16<sup>th</sup> day of April, 1992 by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board