

ILLINOIS POLLUTION CONTROL BOARD
March 26, 1992

THE PUMPER,)
)
 Petitioner,)
)
 v.) PCB 91-262
) (Underground Storage
 ILLINOIS ENVIRONMENTAL) Tank Reimbursement)
 PROTECTION AGENCY,)
)
 Respondent.)

ORDER OF THE BOARD (by M. Nardulli):

This matter is before the Board on the Illinois Environmental Protection Agency's (Agency) March 4, 1992 motion to dismiss and March 9, 1992 motion to file the record instanter.

The Agency asks that the Board dismiss petitioner's petition for review of the Agency's decision disallowing reimbursement from the Underground Storage Tank Fund (Fund) for certain costs of cleaning up contamination from a leaking underground storage tank (UST). Citing Ideal Heating Co. v. IEPA (January 23, 1992), PCB 91-253, the Agency argues that the instant appeal is not ripe and should be dismissed. The Agency has attached the affidavit of Kendra Schmidt, project manager of the northern sub-unit of the LUST Section, stating that the Agency often makes reimbursement payments on a periodic basis during the course of corrective action. (Agency Brief Ex. A.) "This practice was adopted for the benefit of applicants and their creditors since the process of corrective action can frequently extend over a period of several months." (Agency Brief Ex. A.)

In Ideal Heating, the Board ruled that Agency UST decisions are ripe for Board review when the Agency has: (1) denied eligibility; or (2) granted eligibility and completed its deductible and reimbursement determinations. Consequently, Agency determinations on the deductible amount alone are no longer appealable. The Board reached this ruling based upon in part upon the desire to avoid piecemeal appeals. (Id. at 2.)

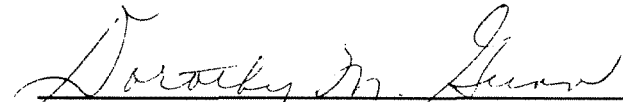
The Board declines to extend its holding in Ideal Heating to cases where the Agency has reached a determination on an applicant's claim for reimbursement of corrective action costs, but other claims for the same site are still pending before the Agency or will be submitted in the future.¹ While the Board has expressed a desire to avoid piecemeal appeals, the Board finds

¹ Because the Board denies the motion to dismiss, it need not wait for petitioner's response. (35 Ill. Adm. Code 101.241(b).)

this goal has been achieved by the ruling in Ideal Heating. Because costs of corrective action can be great, it is important that claims for reimbursement be resolved as quickly as possible, even though other claims may be pending before the Agency. The Board will not promote administrative economy at the expense of environmental clean-up. Therefore, the Agency's motion to dismiss is denied. The Agency's motion to file the record instanter is granted.

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 26th day of March, 1992 by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board