

ILLINOIS POLLUTION CONTROL BOARD
March 26, 1992

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

ORDER OF THE BOARD (by G.T. Girard):

On March 11, 1992, the Board entered an order granting the Illinois Environmental Protection Agency's motion to dismiss petitioner's petition for review of the Agency's underground storage tank (UST) decision. Petitioner stipulated to the Agency's motion to dismiss based upon Ideal Heating Co. v. IEPA (January 23, 1992), PCB 91-253. For the following reasons, the Board on its own motion vacates its dismissal order of March 11, 1992 and reinstates petitioner's petition for review of the Agency's UST Fund reimbursement decision.

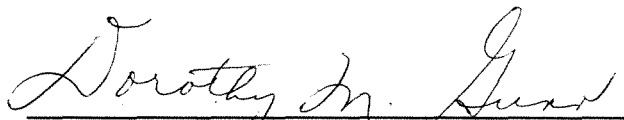
The Agency's motion to dismiss was based upon Ideal Heating Co. v. IEPA (January 23, 1992), PCB 91-253. The Agency argued that under Ideal Heating the instant appeal is not ripe and should be dismissed. In Ideal Heating, the Board ruled that Agency UST decisions are ripe for Board review when the Agency 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.)

However, 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. (See also, City of Roodhouse v. IEPA (March 26, 1992) PCB 92-31; The Pumper v. IEPA (March 26, 1992), PCB 91-262.) While the Board has expressed a desire to avoid piecemeal appeals, the Board finds 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 cleanup.

Therefore, the Board vacates its prior order dismissing this case and reinstates the petition for review. The Board notes that its 120-day decision deadline is not extended by the prior order and begins to run from the date the petition was filed. This matter shall proceed to hearing consistent with this Board's January 9, 1992 order.

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