

ILLINOIS POLLUTION CONTROL BOARD
November 21, 1991

O'BRIEN TIRE AND BATTERY SERVICE,)	
)	
Petitioner,)	
)	
v.)	PCB 91-212
)	(Underground Storage Tank Fund
)	Reimbursement Determination)
)	
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by B. Forcade):

On November 6, 1991, O'Brien Tire and Battery Service filed a letter with attachments which purports to be an appeal of an August 1, 1991 Agency underground storage tank fund reimbursement determination. The letter was not accompanied by the \$75.00 filing fee specified in Section 101.120(b) of the Board's procedural rules and 7.2 of the Act.

In the letter, O'Brien asserts some confusion as to the details of the appeal process, and that a "good faith effort was made to meet the time limits specified for appeals, and thus our attempt to appeal should be permitted. If you concur, please forward the forms needed to register this appeal, along with [information about] the required fees. If you do not concur, I would appreciate you confirming this in writing with the reasoning behind your decision."

On November 13, 1991, the Agency filed a motion to dismiss this appeal on the grounds that it was untimely filed.

Due to the alleged confusion surrounding this filing, the Board has given O'Brien's filing a docket number despite its failure to submit the required \$75.00 filing fee and will consider November 6, 1991 to be the date of filing for the purposes of determination of timeliness of filing issues. The Board has not, however, accepted this matter for hearing.

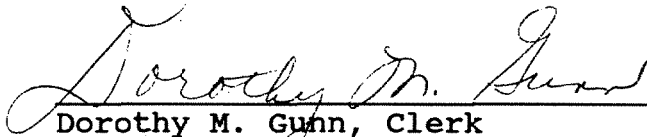
The Clerk's Office is directed to provide O'Brien with a copy of the procedural rules. If O'Brien wishes to pursue this matter, an amended petition should be filed along with the \$75.00 filing fee. The filing of an amended petition does not, however, dispose of the timeliness issues raised by the Agency in its motion to

dismiss. The Board will not rule on this issue until after it has received any response O'Brien may make.

If an amended petition accompanied by the required filing fee is not received within 30 days of the date of this Order, this matter will be dismissed. The filing of an amended petition will restart the Board's timeclock for the purposes of Section 40 of the Act. If O'Brien wishes to respond to the Agency's motion to dismiss, that response also must be filed within 30 days of the date of this 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 21st day of November, 1991 by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board