

ILLINOIS POLLUTION CONTROL BOARD
September 21, 2000

NAPERVILLE RADIATOR SERVICES,)
)
Petitioner,)
)
v.) PCB 01-4
) (UST - FRD)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
Respondent.)
)

ORDER OF THE BOARD (by C.A. Manning):

This order vacates the September 7, 2000 order, which dismissed this matter for lack of jurisdiction.

On July 7, 2000, the parties filed a joint request for an extension of the 35-day appeal period of an Illinois Environmental Protection Agency determination regarding petitioner's request for reimbursement of corrective action costs from the Illinois Underground Storage Tank Fund for its facility located at 833 North Washington Street, Naperville, DuPage County, Illinois. By its order of July 13, 2000, the Board granted the extension "until August 26, 2000, pursuant to section 40(a)(1) of the Environmental Protection Act (Act) (415 ILCS 5/40(a)(1) (1998))."

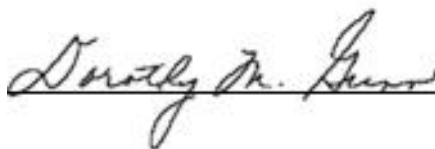
On August 28, 2000, Naperville Radiator Services filed its petition. The certificate of service states that the petition was hand delivered, so that the "mailbox rule" of the Board's procedural rules (35 Ill. Adm. Code 101.102(d)) does not apply here. Under 35 Ill. Adm. Code 101.109 the computation of any period of time prescribed by this Chapter or the Act shall "run until the end of the last day, or the next business day if the last day is a Saturday, Sunday, or national or state legal holiday." Because August 26, 2000 was a Saturday, the extension actually ran until the end of August 28, 2000. Therefore, Naperville Radiator Services' August 28, 2000 filing was timely and the Board accepts this matter for hearing.

The Board's rules require that the Agency file the entire Agency record of the corrective action plan within 14 days of notice of the petition. See 35 Ill. Adm. Code 105.102. Hearing must be scheduled and completed in a timely manner, pursuant to the applicable statutory decision deadline, or the deadline as extended by waiver. See 35 Ill. Adm. Code. 101.105.

Absent any future waivers of the decision deadline, the statutory decision deadline is now December 26, 2000 (120 days from August 28, 2000); the Board meeting immediately preceding the decision deadline is scheduled for December 21, 2000.

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 September 2000 by a vote of 7-0.



Dorothy M. Gunn, Clerk

