

ILLINOIS POLLUTION CONTROL BOARD
January 6, 2005

ILLINOIS AYERS OIL CO.,)	
)	
Petitioner,)	
)	
v.)	PCB 05-48
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

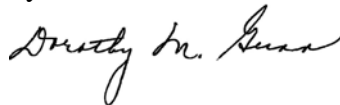
ORDER OF THE BOARD (by G.T. Girard):

On September 16, 2004, the Board, at the parties' request, extended until December 1, 2004, the time period within which Illinois Ayers Oil Co. (Ayers) may appeal a July 28, 2004 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2002); 35 Ill. Adm. Code 105.406. The Agency denied reimbursement for certain costs claimed for corrective action at a site located at 310 State Street, Beardstown, Cass County.

On December 2, 2004, the Board received Ayers' petition asking the Board to review the Agency's determination. Ayers "sent to the Clerk" the filing "via FedEx" on December 1, 2004. The Board's procedural rules provide that if documents are "filed in person or by messenger service or mail delivery service other than U.S. Mail, documents are considered filed when they are received by the Clerk." 35 Ill. Adm. Code 101.300(b)(1). Therefore, the Ayers petition for appeal was filed on December 2, 2004 and is not timely filed. The Board lacks jurisdiction to consider appeals filed after the time specified in Section 40(a)(1) of the Environmental Protection Act (415 ILCS 5/40(a)(1) (2002)). *See Wei Enterprises v. IEPA*, PCB 04-23 (Dec. 4, 2003). Because Ayers failed to timely file an appeal, the Board lacks jurisdiction. The Board dismisses this petition and closes the docket.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 6, 2005, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board