

ILLINOIS POLLUTION CONTROL BOARD  
June 18, 2009

2001 OIL COMPANY,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 09-123
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

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

On June 9, 2009, the Board received a petition from 2001 Oil Company (2001 Oil) asking the Board to review an April 29, 2009 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2006); 35 Ill. Adm. Code 105.402. In the determination, the Agency partially denied 2001 Oil’s request for reimbursement from the Underground Storage Tank (UST) Fund concerning a leaking UST site located at 8001 West Golf Road in Niles, Cook County. For the reasons below, the Board accepts the 2001 Oil’s petition as timely filed, but finds that the petition has deficiencies that must be remedied before this appeal can go forward.

The Board’s procedural rules require that a petition contain, among other things, a “statement specifying the date of service of the Agency’s final decision” and a “statement specifying the grounds of appeal.” 35 Ill. Adm. Code 105.408(b), (c). 2001 Oil’s petition lacks these statements. However, attached to the petition is a May 28, 2009 letter from the Agency indicating that 2001 Oil received the Agency’s determination on May 4, 2009. Based on a May 4, 2009 date of service, the petition is considered timely filed because it was postmarked on or before the filing deadline of June 8, 2009. *See* 415 ILCS 5/40(a)(1) (2006); 35 Ill. Adm. Code 101.300(b)(2) (“mailbox rule”).

In addition, it is unclear whether 2001 Oil’s petition was filed by an attorney. 2001 Oil’s petition was signed by Michael Eiserman, owner of 2001 Oil. In an adjudicatory proceeding before the Board, like this UST appeal, anyone other than an individual must be represented by an attorney licensed and registered to practice law. *See* 35 Ill. Adm. Code 101.400(a)(2).

The Board accepts the petition as timely filed, but directs 2001 Oil to file, by July 20, 2009, an amended petition accompanied by the appearance of an attorney. *See* 35 Ill. Adm. Code 101.400(a)(4). Failure to do so will subject this appeal to dismissal. The amended petition must verify the date of service of the Agency’s determination and specify 2001 Oil’s grounds of appeal. Upon the timely filing of an amended petition, the Board’s statutory 120-day period for deciding this appeal will recommence. *See* 35 Ill. Adm. Code 105.114(b).

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 18, 2009, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

---

John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board