ILLINOIS POLLUTION CONTROL BOARD March 23, 2017

JEET SINGH d/b/a AMAN FOOD & GAS,)	
Petitioner,)	
v.)	PCB 17-51
ILLINOIS ENVIRONMENTAL)	(UST Appeal)
PROTECTION AGENCY,)	
Respondent.)	

ORDER OF THE BOARD (by J.A. Burke):

Jeet Singh, doing business as Aman Food & Gas (Singh), filed a petition asking the Board to review a determination of Illinois Environmental Protection Agency (Agency). In the determination, the Agency partially modified Singh's budgets for investigating a leaking underground storage tank (UST) site at 1830 5th Avenue in Moline, Rock Island County. *See* 415 ILCS 5/40(a)(1) (2014); 35 Ill. Adm. Code 101.300(b), 105.402, 105.404, 105.406. The Board accepts the petition for hearing.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2014)), the Agency decides whether to reimburse cleanup costs for leaking UST sites from the State's UST Fund, which consists of UST fees and motor fuel taxes. If the Agency disapproves or modifies a submittal, the UST owner or operator may appeal the decision to the Board. *See* 415 ILCS 5/40(a)(1), 57-57.17 (2014); 35 III. Adm. Code 105.Subpart D. In this case, the Agency modified the "actual costs" Stage 2 site investigation budget and the proposed Stage 3 site investigation budget. Singh contends that the Agency erred in modifying those costs. Singh's petition meets the content requirements of 35 III. Adm. Code 105.408.

Singh has the burden of proof. *See* 35 Ill. Adm. Code 105.112(a). Hearings will be based exclusively on the record before the Agency at the time the Agency issued its determination. *See* 35 Ill. Adm. Code 105.412. The Board hearing affords Singh the opportunity to challenge the Agency's reasons for its decision; however, information developed after the Agency's decision typically is not admitted at hearing or considered by the Board. *See* Alton Packaging Corp. v. PCB, 162 Ill. App. 3d 731, 738, 516 N.E.2d 275, 280 (5th Dist. 1987); Community Landfill Co. & City of Morris v. IEPA, PCB 01-170 (Dec. 6, 2001), *aff'd sub nom*. Community Landfill Co. & City of Morris v. PCB & IEPA, 331 Ill. App. 3d 1056, 772 N.E.2d 231 (3rd Dist. 2002).

The Board or the hearing officer may order that the hearing be held by videoconference. In deciding whether to hold the hearing by videoconference, factors that the Board or the hearing officer will consider include cost-effectiveness, efficiency, facility accommodations, witness

availability, public interest, the parties' preferences, and the proceeding's complexity and contentiousness. *See* 35 Ill. Adm. Code 101.600(b), 105.110.

Hearings will be completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40(a)(2) (2014)), which only Singh may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board does not take final action by the decision deadline, Singh may deem its request granted. *See* 415 ILCS 5/40(a)(2) (2014). Currently, the decision deadline is June 29, 2017. *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for June 15, 2017.

The Agency must file the entire record of its determination by March 31, 2017. *See* 35 Ill. Adm. Code 105.116(a), 105.410(a). The record must comply with the Board's requirements for content, organization, and certification. *See* 35 Ill. Adm. Code 105.116(b), 105.410(b). In addition, the Agency must file the record electronically. Specifically, the record must be filed through the Clerk's Office On-Line (COOL) or on a portable electronic data storage device and, to the extent technically feasible, in text-searchable Adobe PDF. *See* 35 Ill. Adm. Code 101.302(h)(2)(A), 105.116(a).

IT IS SO ORDERED.

I, Don A. Brown, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 23, 2017, by a vote of 5-0.

Don A. Brown, Assistant Clerk Illinois Pollution Control Board

¹ Any questions about filing the record in an electronic format should be directed to the Clerk's Office at 312-814-3629.