

ILLINOIS POLLUTION CONTROL BOARD  
November 1, 2018

MUNDELEIN REAL ESTATE	)	
INVESTMENTS, LLC,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 19-65
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by U. Choe):

On October 23, 2018, the Board received a letter on behalf of Mundelein Real Estate Investments, LLC (Mundelein) requesting a 90-day extension to file an appeal of a September 27, 2018 determination of the Illinois Environmental Protection Agency (Agency). *See* 415 ILCS 5/40(a)(1) (2016); 35 Ill. Adm. Code 101.300(b), 105.402, 105.404. The Agency’s determination concerns Petitioner’s leaking underground storage tank (UST) site located at 20660 Indian Creek Road in Mundelein, Lake County. For the reasons below, the Board accepts the letter as a timely petition but directs Mundelein to file an amended petition correcting specified deficiencies within 30 days or face dismissal of this appeal.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2016)), the Agency decides whether to approve proposed cleanup plans and budgets for leaking UST sites, as well as requests for cleanup cost reimbursement 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 Ill. Adm. Code 105.Subpart D. In this case, the Agency denied petitioner’s request for reimbursement from the UST Fund.

The Board accepts Mundelein’s October 23, 2018 letter as a timely filed petition but finds the petition is deficient. First, in adjudicatory proceedings before the Board, including this UST appeal, anyone other than an individual must be represented by an attorney licensed and registered to practice law. 35 Ill. Adm. Code 101.400(a)(2). Mundelein’s letter was signed by Mark J. Ravanese, President of Integrity Environmental Services, Inc. Mr. Ravanese did not file an appearance, and his letter does not indicate that he is an attorney.

Second, a petition for review of an Agency UST determination must include “[a] statement specifying the grounds of appeal.” 35 Ill. Adm. Code 104.408(c). Mr. Ravanese’s letter serves as a request for an extension of time to review the matter, prior to filing a formal petition. However, a request for a 90-day extension must be filed jointly by the Agency and Petitioner within 35-days after the date of service of the Agency’s final decision. *See* 415 ILCS

5/40(a)(1) (2016); 35 Ill. Adm. Code 101.300(b), 105.404(b), 105.406. If Mundelein decides to file a formal appeal, Mundelein must specify the grounds for appeal of the Agency's determination.

Third, a petition for review of an Agency UST determination must be accompanied by a \$75 filing fee. 415 ILCS 5/7.5(a); 35 Ill. Adm. Code 101.302(e)(3). Mundelein's letter did not include this fee, and the Board has not since received it.

By Monday, December 3, 2018, which is the first business day following the 30th day after the date of this order, Mundelein must file with the Board an amended petition for review remedying the deficiencies identified above. Failure to do so will subject this appeal to dismissal. *See City of Taylorville/Taylorville Municipal Airport v. IEPA*, PCB 12-57 (Nov. 3, 2011). Timely filing an amended petition will re-start the Board's statutory 120-day deadline to decide this appeal. 35 Ill. Adm. Code 105.114(b). Petitioner must also serve a copy of the amended petition on the Agency. *See* 35 Ill. Adm. Code 101.304.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 1, 2018, by a vote of 5-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large, looped initial "D".

Don A. Brown, Clerk  
Illinois Pollution Control Board