

ILLINOIS POLLUTION CONTROL BOARD
September 8, 2011

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|--------------------------|---|--------------|
| GARY SZCZEBLEWSKI, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 12-15 |
| |) | (UST Appeal) |
| OFFICE OF THE STATE FIRE |) | |
| MARSHAL, |) | |
| |) | |
| Respondent. |) | |

ORDER OF THE BOARD (by C.K. Zalewski):

On July 18, 2011, Gary Szczeblewski (Szczeblewski) filed a petition (Pet.) asking the Board for review and "re-determination for the grant application for removal of the tanks" by the Office of the State Fire Marshal (OSFM). The petition concerns a facility known as Sesser Sun Mart, 203 W. Franklin Ave., Sesser, Franklin County, Illinois. The petition variously mentions actions occurring in 2008 and 2009.

On July 29, 2011, the OSFM filed a motion to dismiss the petition as untimely filed. The OSFM filing suggests the petition concerns a June 7, 2010 OSFM determination.

Based on the July 18, 2011 petition, the Board cannot determine exactly what petitioner is purporting to appeal. The Board does not have jurisdiction to review all OSFM determinations. Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), the OSFM decides whether persons are eligible to have their cleanup costs reimbursed from the UST Fund, which consists of UST fees and motor fuel taxes. If the person is eligible for reimbursement, the OSFM also decides which deductible applies. The UST owner or operator may appeal these OSFM decisions to the Board. *See* 415 ILCS 5/57.9(c)(2) (2006); 35 Ill. Adm. Code 105.Subpart E.

Petitions for review of OSFM determinations must meet the procedural requirements of the Board's procedural rules at 35 Ill. Adm. Code 105.500 - 105.510. The Board notes that the July 18, 2011 does not meet most of the petition content requirements, including but not limited to, proper naming of parties¹, specification by date of the OSFM petition being appealed and inclusion of a copy of that decision, and grounds for appeal. *See* 35 Ill. Adm. Code 105.506. Moreover, the petition was not accompanied by the required filing fee. *See* 35 Ill. Adm. Code 101.302(e)(2).

The Board cannot presently determine whether it has jurisdiction of this action based on the materials before it. The Board orders Gary Szczeblewski to file an amended petition curing

¹ The caption of this order lists the parties correctly, which the petition showed in reverse order.

the noted deficiencies on or before September 30, 2011, or this docket will be dismissed. (The filing of an amended petition will start any applicable decision deadline.) Within 14 days of receipt of service of any amended petition, the OSFM may renew or amend its motion to dismiss as necessary.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 8, 2011, 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 flourish at the end.

John Therriault, Assistant Clerk
Illinois Pollution Control Board