

ILLINOIS POLLUTION CONTROL BOARD  
March 5, 2020

STEVE AND JARILYN STAVROPOULOS, )  
)  
Petitioners, )  
)  
v. ) PCB 20-56  
) (UST Appeal)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
)  
Respondent. )

ORDER OF THE BOARD (by B.F. Currie):

On February 28, 2020, Steve and Jarilyn Stavropoulos (the Stavropouloses) filed a petition asking the Board to review a January 17, 2020 determination of the Illinois Environmental Protection Agency (Agency). The Agency’s determination concerns the Stavropouloses’ leaking underground storage tank (UST) site located at 2844 West 47th Street, in Chicago, Cook County. For the reasons below, the Board directs the Stavropouloses to file an amended petition.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2018)), 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), 57.7(c)4, -57.8(i) (2018); 35 Ill. Adm. Code 105.Subpart D. In this case, the Agency denied petitioner’s request for reimbursement from the UST Fund. The Stavropouloses appeal on the grounds that the Agency’s denial was arbitrary and capricious.

Any petition to appeal must be filed within 35 days after the date of service of the Agency’s final decision. 415 ILCS 5/40(a)(1) (2018), 57.8(i) (2018); 35 Ill. Adm. Code 105.404. If a petition is filed late, the Board lacks jurisdiction to hear the appeal. *See, e.g., Illinois Ayers Oil Co. v. IEPA*, PCB 05-48, slip op. at 5 (March 17, 2005). Because a timely filed petition is a jurisdictional prerequisite, the Board’s procedural rules require the petition to contain “[a] statement specifying the date of service of the Agency’s final decision.” 35 Ill. Adm. Code 105.408(b). The Stavropouloses’ petition (Pet.) does not include this statement.

Instead, the Stavropouloses’ petition claims to have been “timely filed in accordance with Section 40 of the Act and 35 Ill. Admin. Code § 105.406.” Pet. At 2. Under those provisions, the Board may extend the 35-day appeal period, but that did not occur here. Further, any request to extend the 35-day appeal period must be filed “within the initial appeal period.” 415 ILCS 5/40(a)(1) (2018); *see also* 35 Ill. Adm. Code 105.406.

Without more information, the Board cannot determine whether the Stavropouloses' petition was timely filed and, therefore, whether the Board has jurisdiction to hear this appeal. Accordingly, the Board directs the Stavropouloses to file an amended petition by March 26, 2020, stating the date of service of the Agency's final decision. *See* 35 Ill. Adm. Code 101.300(c) (date of service).

The Agency must file the entire record of its decision within 30 days after the petitioners file their amended petition. *See* 35 Ill. Adm. Code 105.116(a), 105.410(a). The Board's decision deadline will run from the filing of the amended petition. 35 Ill. Adm. Code 105.114.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 5, 2020, by a vote of 4-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board