

ILLINOIS POLLUTION CONTROL BOARD
December 16, 1993

CITY OF ELGIN,)	
an Illinois municipal corporation,)	
)	
Petitioner,)	
)	
v.)	PCB 93-246
)	(UST Fund)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by M. Nardulli):

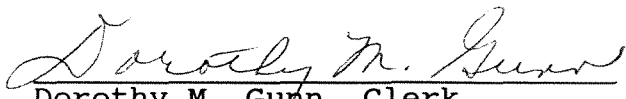
This matter is before the Board on a December 1, 1993 petition for review, filed by petitioner City of Elgin (Elgin). Elgin seeks review of the Illinois Environmental Protection Agency's (Agency) decision denying petitioner's request for reimbursement of certain costs from the Underground Storage Tank Fund. On December 2, 1993, the Board directed Elgin to file an amended petition providing the Board with additional information and proof that the Agency had been served. On December 15, 1993, Elgin filed an amended petition, including a copy of the Agency's correspondence and voucher, along with proof of service.

Based upon the newly received information, the Board questions whether this appeal is timely. The Agency's voucher is dated both "October 12, 1993" and "October 18, 1993". In the amended petition, Elgin states that the Agency issued its voucher on October 27, 1993. We note that the Comptroller's check is dated October 27, 1993. Furthermore, the Agency's correspondence states that an appeal may be brought within "35 calendar days from the date the Comptroller mails the accompanying check to file a petition for a hearing with the Board", and cites Section 105.102(a)(2) of the Board's procedural rules. However, that section provides that an appeal shall be filed "within 35 days of the date of mailing of the Agency's final decision." (35 Ill. Adm. Code 105.102(a)(2).) Petitioner shall address the issue of whether this appeal is timely pursuant to the Environmental Protection Act and the Board's rules. The Agency is also directed to address that issue.

Petitioner shall provide its response within 45 days of the date of this order. Failure to do so will subject this petition to dismissal. Petitioner's response will be construed as an amended petition, and the decision deadline will be calculated from the date of filing of that amended petition. The Agency's response to the issue of timeliness is due within 7 days of receipt of petitioner's filing.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 16th day of December, 1993, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board