

ILLINOIS POLLUTION CONTROL BOARD
January 6, 1994

WEST AURORA SCHOOL)
DISTRICT 129,)
)
Petitioner,)
) PCB 94-3
v.) (UST FUND)
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by G. T. Girard):

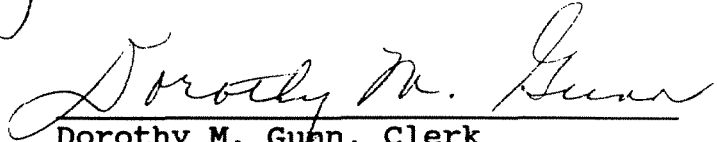
On January 4, 1994, the Board received a letter dated December 16, 1993 which appears to seek an appeal of an Agency determination regarding reimbursement for an underground storage tank removal. Attached to the letter is an invoice voucher dated October 25, 1993 and date stamped as received on November 5, 1993. Also attached is a letter dated December 13, 1993 to the Agency indicating that the petitioner wishes to appeal the Agency decision.

Section 22.18b(g) of the Act (Environmental Protection Act 415 ILCS 5/22.18b)¹ provides that a owner or operator may petition the Board for review pursuant to Section 40 of the Act. Section 40 of the Act provides that a petition may be filed within 35 days of the Agency's action. Although the Board has cases currently on review questioning whether the receipt of the voucher is the date by which the appeal time should begin to run, in this case the Board need not examine that issue. In this case even if receipt of the voucher were to start the time clock for appeal this appeal has been filed outside of the 35 days. Even the letter addressed to the Agency requesting an appeal was dated 38 days after receipt of the voucher. Therefore this appeal is not timely filed and the petition is hereby dismissed.

¹ The Board notes that P. A. 88-496 repealed Section 22.18b of the Act. The provision is now located at Section 57.8(i) of the Act.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted on the 6th day of January, 1994, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board