

ILLINOIS POLLUTION CONTROL BOARD
January 6, 1994

DAVID GEUTHER and)	
FEHR-GRAHAM & ASSOCIATES,)	
)	
Petitioners,)	
)	
v.)	PCB 93-232
)	(UST Fund)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on a December 20, 1993 amended petition, filed by petitioners David Geuther and Fehr-Graham & Associates (collectively, petitioners). Petitioners filed the amended petition in response to the Board's December 2, 1993 order seeking more information. One of the issues raised in that December 2 order was whether the petition for review is timely. We directed petitioners and the Illinois Environmental Protection Agency (Agency) to address that issue within 45 days. Petitioners have addressed that issue. The Agency's response is not due until January 18, 1994.

We believe that we must address the issue of timeliness of this appeal, but we will not do so until we have received a response from the Agency. However, because this case has a decision deadline that is calculated from the date of filing of the amended petition (December 20, 1993), we will provisionally set this matter for hearing. We do so without making any finding, at this time, that the petition is timely filed. Additionally, we direct the Agency to discuss, in its response, when a petitioner receives the voucher (and any attachments). Is that voucher mailed directly to the petitioner by the Agency (and if so, when), or does a petitioner receive the Agency's voucher when it receives the check from the Comptroller?

The hearing must be scheduled and completed in a timely manner, consistent with Board practices and the applicable statutory decision deadline, or the decision deadline as extended by a waiver. (Petitioner may file a waiver of the statutory decision deadline pursuant to 35 Ill. Adm. Code 101.105.) The Chief Hearing Officer shall assign a hearing officer to conduct hearings. The Clerk of the Board shall promptly issue appropriate directions to the assigned hearing officer consistent with this order.

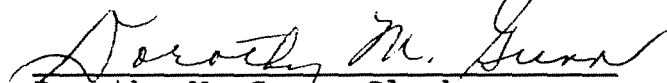
The assigned hearing officer shall inform the Clerk of the Board of the time and location of the hearing at least 40

days in advance of hearing so that public notice of hearing may be published. After hearing, the hearing officer shall submit an exhibit list, a statement regarding credibility of witnesses and all actual exhibits to the Board within five days of the hearing. Any briefing schedule shall provide for final filings as expeditiously as possible and, in time-limited cases, no later than 30 days prior to the decision due date, which is the final regularly scheduled Board meeting date on or before the statutory or deferred decision deadline. In this case, the statutory decision deadline is April 19, 1994; therefore the decision due date is March 31, 1994.

If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after an attempt the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date in conformance with the schedule above. The hearing officer and the parties are encouraged to expedite this proceeding as much as possible. The Board notes that Board rules (35 Ill. Adm. Code 105.102) require the Agency to file the entire Agency record of the permit application within 14 days of notice of the petition.

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 6th day of January, 1994, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board