

ILLINOIS POLLUTION CONTROL BOARD

March 7, 2002

J & L OIL, INC. (Fox Lake)	)	
Petitioner,	)	
	)	
v.	)	PCB 02-112
	)	(UST Appeal)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by C.A. Manning):

On February 8, 2002, J & L Oil , Inc. (J & L) timely filed a petition asking the Board to review an Illinois Environmental Protection Agency (Agency) January 9, 2002 determination. *See* 415 ILCS 5/40(a)(1) and 5/57.1 (2000); 35 Ill. Adm. Code 105. Subpart D.

The Agency denied J & L reimbursement from the Underground Storage Tank (UST) Fund for \$5,463 in allegedly ineligible costs regarding a UST at a site at 511 E. Grand Avenue, Fox Lake, Lake County. In its appeal, J & L states that it had submitted a request to reconsider to the Agency on January 31, 2002. In addition to the Agency January 9, 2002 determination letter, J & L attaches to its petition various additional information it wishes the Board to consider.

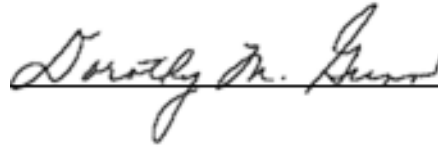
In UST appeals such as this, the petitioner has the burden of proof. 35 Ill. Adm. Code 105.112. The hearing before the Board is based *exclusively on the record before the Agency at the time the Agency issued its determination.* 35 Ill. Adm. Code 105.412 (emphasis added). The Board will not consider in this proceeding any new or additional information J & L may have located or developed after its last communication with the Agency prior to the January 9, 2002 determination.

Additionally, J & L's petition is deficient because it does not meet the filing or information requirements of 35 Ill. Adm. Code 101.Subpart C or 105.408. Among other things, J & L has failed to serve the Agency with this petition, provide sufficient copies of its pleadings, or meet Section 105.408's petition content requirements.

Unless J & L properly files and serves an amended petition curing the noted deficiencies within 35 days of the date of this order, this petition will be subject to dismissal. The filing of an amended petition will restart the Board's decision timeclock. *See* 35 Ill. Adm. Code 105.108 and 105.114. Additionally, the date for the filing of the Agency record under 35 Ill. Adm. Code 105.116 and 105.410 will be calculated from the date an amended petition is filed.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 7, 2002, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board