

ILLINOIS POLLUTION CONTROL BOARD  
February 3, 1994

MADISON GROUP 90,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 94-42
	)	(UST Fund)
OFFICE OF THE ILLINOIS STATE	)	
FIRE MARSHAL,	)	
	)	
Respondent.	)	

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

On January 20, 1994, the Madison Group 90 (Madison) filed a petition for review of an Office of the Illinois State Fire Marshal (OSFM) eligibility and deductibility determination to access the Underground Storage Tank Fund. The OSFM issued a final determination letter on December 21, 1993 pursuant to Section 57.9(c) of the Act and the appeal was brought under Section 57.9(c)(2).<sup>1</sup> (415 ILCS 5/57.9(c)(1993).<sup>2</sup>) The final determination concerns Madison's heating oil tank designated as "Tank #2" located at 4211 Madison Street, Hillside, Cook County, Illinois. This matter is hereby accepted for hearing.

The hearing must be scheduled and completed in a timely manner, consistent with Board practices and the applicable statutory decision deadline or the waiver provisions of 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 may be published. After hearing, the hearing officer shall submit an exhibit list, a statement regarding credibility of witnesses and all actual

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<sup>1</sup> The Board will treat the OSFM letter dated December 21, 1993 as a final determination pursuant to Section 57.9(c) of the Act even though the letter contains language stating that the determination as to deductible is "preliminary." (See IEPA v. IPCB, (November 23, 1993), No. 5-92-0468.)

<sup>2</sup> P.A. 88-496 became effective on September 13, 1993. P.A. 88-496 substantially amended the Environmental Protection Act repealing Sections 22.13, 22.18, 22.18b and 22.18c, and adopting new Title XVI, and specifically, new Section 57.

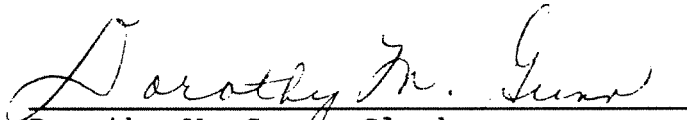
exhibits to the Board within five days of the hearing. Any briefing schedule shall provide for final filings as expeditiously as possible and, in time-limited cases, no later than 30 days prior to the decision due date, which is the final regularly scheduled Board meeting date on or before the statutory or deferred decision deadline. In this case, pursuant to Section 40(a)(2) of the Act, the statutory decision deadline is May 20, 1994; therefore, the decision due date is May 19, 1994.

If after appropriate consultation with the parties, the parties fail to provide an acceptable hearing date or if after attempting to do so, the hearing officer is unable to consult with the parties, the hearing officer shall unilaterally set a hearing date in conformance with the above schedule. The hearing officer and the parties are encouraged to expedite this proceeding to the extent possible.

This order will not appear in the Board's opinion volumes.

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 3<sup>rd</sup> day of February, 1994, by a vote of 7-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board