

ILLINOIS POLLUTION CONTROL BOARD
February 6, 2020

BANK OF PONTIAC,)	
)	
Petitioner,)	
)	
v.)	PCB 20-48
)	(UST Appeal)
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	

ORDER OF THE BOARD (by B.K. Carter):

On January 17, 2020, Bank of Pontiac (Pontiac) timely filed a petition (Pet.) asking the Board to review a series of five decisions made by the Illinois Environmental Protection Agency (IEPA) dated between December 13, 2019 and January 11, 2020.¹ *See* 415 ILCS 5/40(a)(1) (2018); 35 Ill. Adm. Code 101.300(b), 105.402, 105.404, 105.406. The IEPA's decisions concern Pontiac's underground storage tank site at 12 East Jackson Street, in Morton, Tazewell County.

Under the Environmental Protection Act (Act), the IEPA decides whether to approve proposed cleanup plans and budgets for leaking UST sites, as well as requests for cleanup cost reimbursement from the State's UST Fund, which consists of UST fees and motor fuel taxes. *See* 415 ILCS 5 (2014). If IEPA denies or modifies a submittal, the UST owner or operator may appeal the decision to the Board. *See* 415 ILCS 5/40(a)(1), 57-57.17 (2014); 35 Ill. Adm. Code 105.Subpart D. In this case, the IEPA issued five letters dated between December 13, 2019 and January 11, 2020, in which the IEPA: (1) on December 13, 2019, rejected Pontiac's Site Investigations Completion Report (Report); (2) on December 18, 2019, deducted \$15,639.09 of the requested costs for Pontiac's Stage 2 investigation; (3) on December 18, 2019, deducted \$22,417.61 of the requested costs for Pontiac's Stage 3 investigation; (4) on December 23, 2019, modified Pontiac's State 2 Site Investigation Plan Budget (Stage 2 Budget); and (5) on January 11, 2019, modified Pontiac's Stage 3 Site Investigation Plan Budget (Stage 3 Budget). Pet. at 2-3.

Pontiac appeals IEPA's decisions on the following grounds. First, the IEPA's decision denying the Report was arbitrary, without cause, and inconsistent with past IEPA precedent. Pet. at 2. Second, all costs expended for Pontiac's Stage 2 investigation were actually and legitimately expended and performed, and reasonable and necessary under the circumstances. Pet. at 2. Third, all costs expended for Pontiac's Stage 3 investigation were actually and legitimately expended and performed, and reasonable and necessary under the circumstances.

¹ Paragraph 10 of the Pet. refers to an IEPA letter dated January 11, 2019, but the context of the document and the letter attached to the petition indicate that the letter is from 2020.


Pet. at 2. Fourth, the IEPA's modifications to Pontiac's Stage 2 Budget were unreasonable and arbitrary, and Pontiac alleges that the amounts requested were supported by significant documentation, reasonable, customary, and necessary for the proper completion of the project and site closure. Pet. 2-3. Finally, the IEPA's modifications to Pontiac's Stage 3 Budget were unreasonable and arbitrary, and Pontiac alleges that the amounts requested were supported by significant documentation, reasonable, customary, and necessary for the proper completion of the project and site closure. Pet. 2-3.

Pontiac has timely petitioned the Board to review these five decisions. However, Pontiac must file separate petitions for review for each of the IEPA's five decisions (35 Ill. Adm. Code 105.404, 408). To effectuate Pontiac's petition, the December 13, 2019 IEPA decision will be addressed in this Docket No. 20-48 and four additional dockets will be opened for each of the remaining IEPA determinations (PCB 20-49 for the December 18, 2019 deduction of Stage 2 investigation costs; PCB 20-50 for the December 18, 2019 deduction of Stage 3 investigation costs; PCB 20-51 for the December 23, 2019 modification of Stage 2 Budget; PCB 20-52 for the January 11, 2019 modification of Stage 3 Budget). The Board directs Pontiac to file an amended petition for review of the IEPA's December 13, 2019 determination in this docket. The Board further directs Pontiac to file separate amended petitions for review relating to each of the remaining four decisions in the above dockets by March 9, 2020.

The Board declines to further address Pontiac's allegations in its January 17, 2020 petition until the amended petitions are filed as directed. Where Pontiac fails to file the amended petitions with the required filing fees paid in any of these dockets by 4:30 p.m. on March 9, 2020, the Board will dismiss those dockets.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 6, 2020 by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink and is positioned above a horizontal line.

Don A. Brown, Clerk
Illinois Pollution Control Board